

# GOVERNMENTAL AFFAIRS REPORT

## Highlights At-A-Glance

### FEDERAL – Legislative

**S. 4421 – Advancing Tribal Parity on Public Land Act.** On June 16, Sen. Martin Heinrich (D-NM) introduced [S. 4421](#), known as the “Advancing Tribal Parity on Public Land Act.” The bill would “protect Native cultural sites located on Federal land, to improve consultation with Indian Tribes, to bring parity to Indian Tribes with regard to Federal public land management laws.” According to Sen. Heinrich, “It is long overdue that we recognize that Tribes across Indian Country have ancestral sites, historical ecological knowledge, and ongoing cultural practices on our federal public lands.” [Read more.](#)

**S. 4423 – Tribal Cultural Areas Protection Act.** On June 16, Sen. Martin Heinrich (D-NM) introduced [S. 4423](#), known as the “Tribal Cultural Areas Protection Act.” The bill would establish a national Tribal Cultural Areas System to designate public lands with culturally significant sites. Tribal cultural areas would be managed to preserve their cultural values while allowing for traditional Tribal cultural use. The bill would also direct public land management agencies to identify potential Tribal cultural areas and provide authority to Tribal nations in the management of Tribal cultural areas. [Read more.](#)

**H.R. 8176 – Unleash American Drilling Act.** On July 5, official bill text was made available for H.R. 8176, known as the “Unleash American Drilling Act.” Sponsored by Rep. Ted Budd (R-NC), the bill would “amend the Mineral Leasing Act to require the Secretary of the Interior to issue decisions on applications for permits to drill that have been frozen in contravention of the spirit of such Act.” [Read more.](#)

**H.R. 8224 – Fueling American Prosperity Act.** On July 8, official bill text was made available for H.R.

8224, known as the “Fueling American Prosperity Act.” Sponsored by Rep. Lauren Boebert (R-CO), the bill would “require the Secretary of the Interior to carry out certain offshore oil and gas lease sales and finalize the next offshore oil and gas leasing program.”

[Read more.](#)

### FEDERAL – Regulatory

**BLM Gunnison Sage-Grouse Resource Management Plans – Colorado; Utah.** On July 6 the Bureau of Land Management (BLM) published a *Notice of Intent to Amend Multiple Resource Management Plans Regarding Gunnison Sage-Grouse (Centrocercus minimus)* ([87 Fed. Reg. 40262](#)), stating that the BLM “Colorado and Utah State Directors intend to prepare a Gunnison Sage-Grouse Resource Management Plan (RMP) Amendment with an associated environmental impact statement (EIS), and by this notice are announcing the beginning of the public scoping period to solicit public comments and identify issues, providing the planning criteria for public review, and issuing a call for nominations for areas of critical environmental concern (ACECs).” The RMP amendment with an associated EIS is “for the management of Gunnison sage-grouse and its habitat, announce the beginning of the scoping process, seek public input on issues and planning criteria, and invite the public to nominate ACECs.” The public comment period is open through August 22, 2022. [Read more.](#)

**BLM Resumes Lease Sales.** As reported in the April 25, 2022 issue of the AAPL Governmental Affairs Report, the Bureau of Land Management (BLM) was set to resume long-stalled onshore lease sales. On June 30, the BLM effectively held its first onshore lease sales of the Biden administration, since the only other lease sale it held earlier this year “was tossed in

court on environmental grounds.” The BLM held lease sales in seven Western states: Wyoming, Montana, North Dakota, Nevada, Utah, New Mexico, and Colorado. In Colorado, the lease sale offered six parcels totaling 2,444.13 acres in Weld, Jackson, Moffat, and Rio Blanco counties on public lands managed by the Rocky Mountain and Northwest District Offices. Three parcels were sold for a total of \$1,201,794.50. [Read more](#). In the Montana/North Dakota sale 23 parcels were offered totaling 3,405.8 acres. Nineteen parcels were sold for a total of \$7,354,562.00. Whiting Oil and Gas Corporation of Denver, Colorado, was the highest bidder, with a total bonus bid of \$2,346,485.50 for a 68.53-acre parcel in Mountrail County, North Dakota. [Read more](#). In Nevada, the BLM offered 5 parcels totaling 2,560 acres in Nye County on public lands managed by the Battle Mountain District Office. Four parcels were sold for a total of \$54,700.00. [Read more](#). In New Mexico, the lease sale offered six parcels totaling 535.72 acres in Chaves County, NM, Lea County, NM, and Dewey County, OK on public lands managed by the Roswell Field Office, Carlsbad Field Office, and Oklahoma Field. Six parcels were sold for a total of \$632,385. [Read more](#). In Wyoming, the sale offered 122 parcels totaling 119,493 acres. 81 parcels were sold for a total of \$13,021,696. [Read more](#). Results of the Utah sale were not yet made publicly available as of this reporting. [Read more](#).

## **FEDERAL – Judicial**

### **EPA Authority; Climate Change – Washington, DC.**

On June 30, the U.S. Supreme Court issued its opinion in the pivotal case, [West Virginia v. Environmental Protection Agency](#) (Case No. 20-1530), that drastically alters the Environmental Protection Agency’s ability to regulate climate change. The case, while not specifically related to landmen or the oil and gas industry, provides a framework for how the Supreme Court addresses regulatory overreach regarding greenhouse gas emissions and climate change. As reported by *The Hill*, the “high court’s ruling invoked a legal philosophy called the ‘major questions doctrine,’ which posits that regulations of substantial national significance need to have clear

authorization from Congress.” This may inhibit future moves by the EPA to impose blanket regulations targeting oil and gas production as well as midstream and downstream operations. Here, the case centered on whether the EPA overreached in regulating greenhouse gas emissions from power plants under the Clean Air Act. At stake was whether the EPA had the authority to regulate “beyond the fenceline,” meaning a wider sector approach versus plant-by-plant. In the 6-3 decision, the majority ruled that Congress did not authorize the EPA to induce a shift to cleaner energy sources using the approach that an Obama-era regulation sought to do. Writing for the majority, Chief Justice John Roberts explained that the plan, which involved regulating the power system as a whole instead of regulating individual plants, was an “unprecedented” view of the EPA’s authority that involved a “fundamental revision of the statute, changing it from [one sort of] scheme of . . . regulation” into an entirely different kind. But more broadly, the justices dealt a major blow to the EPA’s and other federal agencies’ regulatory ability to address climate change. In response to the decision, West Virginia Attorney General Patrick Morrisey (R) said his office viewed the case as pertaining to separation of powers, and indicated that it would seek to fight similar cases at different agencies. “This is about maintaining the separation of powers, not climate change,” he said in a statement. “And we’re not done. My office will continue to fight for the rights of West Virginians when those in Washington try to go too far in asserting broad powers without the people’s support.” [Read more](#).

**Federal Leasing – Washington, DC.** On June 28, environmental groups sued the U.S. Department of the Interior and Bureau of Land Management (BLM) in the U.S. District Court for the District of Columbia in [Dakota Resource Council v. U.S. Dept. of the Interior](#) (Case No. 1:22-cv-01853) challenging “the sale of 173 oil and gas lease parcels, encompassing 144,000 acres of public lands across eight western states.” The plaintiffs argue “the sales constitute a violation of the Federal Land Policy and Management Act, under which the Interior Department has a responsibility to prevent ‘unnecessary or undue degradation’ of public lands. The plaintiffs projected that the sales, as well as

another series of sales scheduled in Colorado, New Mexico, Oklahoma, and Wyoming, will cost billions in harms to air, water, local wildlife and public health.” The lawsuit calls for the BLM to prepare a comprehensive environmental impact statement that should analyze the compatibility of the predicted increased greenhouse gas emissions with the urgent need to address climate change. [Read more.](#)

**Federal Leasing – Washington, DC.** Related to the above case, on June 29, two environmental groups attempted to stop the June onshore federal lease sales, particularly in Wyoming. In [The Wilderness Society v. Haaland](#) (Case No. 1:22-cv-01871), the plaintiffs “filed suit over the Biden administration’s decision to offer 123 parcels covering nearly 120,000 acres (approximately 188 square miles) of federal land for oil and gas drilling.” The [groups claimed](#) that “The Bureau of Land Management (BLM) is moving forward with the sale despite acknowledging that greenhouse gas pollution from development of the leases could result in billions of dollars in social and environmental harm – the equivalent of adding hundreds of thousands of cars to the road each year. The lease sale will also commit these public lands to oil and gas drilling before BLM completes reforms to the federal oil and gas leasing program that the agency has recognized are needed.” Specifically, the complaint argues “that the Wyoming lease sale violates the National Environmental Policy Act (NEPA) and Administrative Procedure Act by locking in extensive oil and gas development rights without grappling with the enormous climate change costs of doing so, and without addressing protection of groundwater and wildlife.” The complaint, however, was unsuccessful in stopping the lease sale as noted above under the Federal-Regulatory section of this report. [Read more.](#)

## [STATE – Legislative](#)

**Well Reporting – Pennsylvania.** On July 1, HB 2724 was introduced by Rep. Christopher Rabb (D). The bill would “provide for the reporting of impacts on communities and public resources caused by unconventional natural gas production.” Specifically, under this legislation, well operators would be required

to report specific information annually and the reports would be made publicly available through the Pennsylvania Department of Environmental Protection’s website. [Read more.](#)

## **Hydraulic Fracturing; Public Health – Pennsylvania.**

On June 14, HB 1467 was introduced by Rep. Rick Krajewski (D). The bill would require “the Department of Health (DOH) to create a full public health response to the serious harms to human health caused by the fracking industry.” The bill would also require the DOH to coordinate with the state Department of Environmental Protection (DEP) “to collect, analyze and maintain updated data on the impact of fracking on public health and make this data available and easily accessible to the public.” Additionally, the bill would “require DOH and DEP to investigate all resident complaints related to fracking facilities. DOH would also coordinate with local health centers and develop public education resources and training on the impact of fracking for local health officials.” The bill has a low likelihood of advancing in the Republican-controlled legislature. [Read more.](#)

## [STATE – Regulatory](#)

### **Oil & Gas Conservation Commission Adopts Orphan Well Mitigation Fee Enterprise Rules –**

**Colorado.** On June 30, the Colorado Oil & Gas Conservation Commission (COGCC) announced its adoption of Orphan Well Mitigation Fee Enterprise Rules. “Today’s rulemaking is the necessary follow through to March’s Financial Assurance Rulemaking to establish this first-ever enterprise fund for orphan wells that ensures the creation of an industry funded orphan well program with the highest level of environmental protections,” said COGCC Chair Jeff Robbins. The rulemaking establishes a fee paid by industry that is expected to generate initially \$10M annually and is responsive to address orphan wells in the state of Colorado. The fee will be revisited annually, allowing the funding to increase or decrease depending on the needs and anticipated scale of future orphan well work. This robust orphan well funding mechanism needed the legislature to create the Enterprise Fund. This fund is in addition to the \$10-15 million Colorado

expects to receive and spend annually for the next ten years from the Federal Infrastructure Investment and Jobs Act. In total, the federal funds and the orphan well funds will likely total \$100-\$115 million over the next 5 years, which is unprecedented and will be totally paid for by industry and the federal government. The rule is effective August 1, 2022. [Read more.](#)

**Oil and Gas Ozone Regulations – New Mexico.** (*Update to 9/7/21 Report*) To follow up prior reporting, on July 6, the New Mexico Environment Department (NMED) announced that “Part 20.2.50 NMAC Oil and Gas Sector – Ozone Precursor Pollutants was filed with the New Mexico State Records administrator pursuant to Section 14-4-3 of the New Mexico State Rules Act on July 6, 2022. [Read more.](#) The final rule will be published in Issue 14 of the NM Register on July 26, 2022, with an effective date of August 5, 2022.” For background, the [New Mexico Environmental Improvement Board held a public hearing](#) on September 20, 2021 on the proposed rulemaking and a redline of the amended portions of the regulation is [available here](#). The adopted regulations target emissions of ozone precursor pollutants from the oil and natural gas sector. [Read more.](#)

**Railroad Commission Rulemaking – Texas.** The Railroad Commission of Texas (RRC) announced on June 30 that it “has adopted revisions to the Form P-16, *Acreage Designation*, and the instructions for both drilling permit and well compliance functions. The revisions align the form’s functionality with the options afforded to operators when providing information for exceptions to 16 Texas Administrative Code §40(e)(2) [Statewide Rule 40(e)(2)]. The new Form P-16 and instructions are required to be used effective Wednesday, June 28, 2022.” The adopted revisions to the form include changes to Section II (Ownership Interval boxes added) and Section V (will no longer account for the proposed well. The information provided in this section now only pertains to the developmental tract acreage and any ownership interval information for those tracts). [Read more.](#)

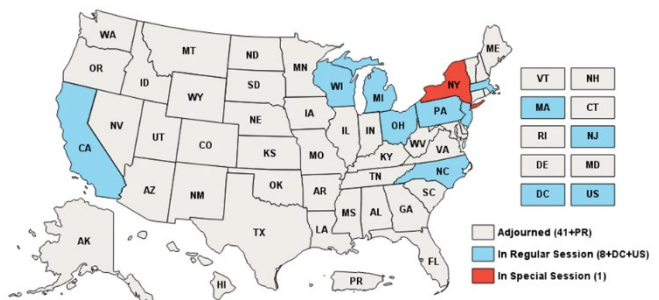
## INDUSTRY NEWS FLASH

► **Poll shows high support for pause on federal and state gas taxes.** According to a recent Politico-Morning Consult poll, more than 70 percent of Americans “support temporarily suspending federal and state gas taxes as the country grapples with high inflation and lingering supply chain issues. The poll “found that 72 percent of respondents supported halting the federal gas tax of 18 cents per gallon for 90 days.” An even higher percentage – 74 percent – supported suspending state gas taxes. [Read more.](#)

► **AAPL releases The Path of the Landman outreach video.** AAPL has just released an exciting and informative outreach video, *The Path of the Landman – Powering the World*. The video “tells the story of the land professional’s journey of converting ideas into energy. Bringing a fresh awareness of the landman’s crucial role in the energy industry, it dispels myths and misconceptions while highlighting the importance of the land profession and energy business to our local communities, states, country, and world by providing the basic necessities for a modern life, as well as national security and a strong economy.” The video is available on YouTube and may be [accessed here](#).

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes:** California, Massachusetts, Michigan, 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: **Arizona** (June 24), **Rhode Island** (June 25), **Delaware** (June 30) and **North Carolina** (July 1).

**Signing Deadlines** (by date): **Iowa** Republican Gov. Kim Reynolds had until June 24 to act on legislation or it was pocket vetoed. **Arizona** Republican Gov. Doug Ducey has until July 6 to act on legislation or it becomes law without signature. **Hawaii** Democratic Gov. David Ige has until July 12 to act on legislation or it becomes law without signature. **Missouri** Republican Gov. Mike Parson has until July 14 to act on legislation or it becomes law without signature. **Alaska** Republican Gov. Mike Dunleavy has 20 days from presentment, Sundays excluded, to act on legislation or it becomes law without signature. **Delaware** Democratic Gov. John Carney has 10 days from presentment, Sundays excepted, 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. **Louisiana** Democratic Gov. John Bel Edwards has 20 days from presentment to act on legislation or it becomes law without signature. **Maine** Democratic Gov. Janet Mills must act on legislation presented within 10 days of adjournment or it becomes law unless returned within three days after the next meeting of the same legislature. **Nebraska** Republican Gov. Pete Ricketts has five days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **New Hampshire** Republican Gov. Chris Sununu has five days from presentment to act on legislation or it is pocket vetoed. **New York** Democratic Gov. Kathy Hochul has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **Rhode Island** Democratic Gov. Daniel McKee has six days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **South Carolina** Republican Gov. Henry McMaster has two days after the next meeting of the legislature to act on legislation or it becomes law without signature.

The following states are currently holding 2022 interim committee hearings: [Arizona](#), [Arkansas](#), [Colorado](#), [Connecticut](#), [Georgia](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Missouri House](#) and [Senate](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Montana](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [North Dakota](#), [Oregon](#), [Rhode Island](#), [South Carolina House](#) and [Senate](#), [South Dakota](#), [Tennessee](#), [Texas House](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#) and [Wyoming](#). ■

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## Highlights At-A-Glance

### FEDERAL – Legislative

**S. 4227 – Bureau of Land Management (BLM) Mineral Spacing Act.** On July 21, [S. 4227](#), known as the “Bureau of Land Management (BLM) Mineral Spacing Act,” was reportedly favorably out of the Senate Committee on Energy and Natural Resources following its initial May 2022 introduction. Introduced by Sen. John Hoeven (R-ND), the bill’s purpose is to “streamline the oil and gas permitting process and to recognize fee ownership for certain oil and gas drilling or spacing units.” According to Sen. Hoeven, “Our legislation is about alleviating the regulatory burden for energy developers and empowering private mineral holders to exercise their property rights. It doesn’t make sense that the federal government can veto energy development when it’s a minority mineral rights holder and has no surface rights. By eliminating the BLM permit requirement in these instances, our bill will enable greater domestic energy production, helping us to bring down inflation and strengthen U.S. economic and national security.” Specifically, the bill removes the BLM permitting requirement in instances when less than half of the subsurface minerals within a drilling spacing unit are owned by the federal government and the federal government does not own or lease any surface rights within the impacted area. The bill allows the federal government to receive royalties from energy production within the particular drilling or spacing unit, and subjects energy producers to all state laws, regulations and guidance governing energy activity in each relevant jurisdiction. [Read more.](#)

**Congressional Republicans Deliver Letter to President Biden Expressing Weakness of Administration Regarding Domestic Energy.** On July 12, House Minority Leader, Rep. Kevin McCarthy (R-CA), joined by 68 colleagues, delivered a letter to President Biden in which they “express concern

regarding your upcoming visit to the Middle East, where it is reported that you intend to ask the Kingdom of Saudi Arabia and other OPEC+ nations to export more oil to the United States. This confusing display of weakness is astounding considering that, just a few short years ago, the U.S. was producing more oil and natural gas than any country in the world.” The lawmakers invited President Biden to visit domestic energy producers rather than Middle East tyrants and proposed numerous ways in which the United States could once again be energy dominant. “Both onshore and offshore, America has the resources to control our own energy security to help lower prices. It is time that your administration recognizes this and rolls back the destructive actions it has already taken before this crisis gets even worse.” [Read more.](#)

### FEDERAL – Regulatory

**President Biden Announces Executive Action on Climate Change.** On July 20, President Biden delivered a speech at a former Massachusetts coal-fired power plant to announce, “new executive steps to combat climate change” but stopped short of declaring a “climate emergency.” This comes amid legislative efforts to pass widespread environmental legislation stalled in the U.S. Senate, mostly due to Sen. Joe Manchin’s (D-WV) vocal opposition to the large budget package his Democrat colleagues and the President have proposed. In its place, the Biden administration is seeking to take certain actions by executive order, although these policies would be greatly limited without Congressional approval. Three key actions President Biden is taking are: (1) Protect Communities from Extreme Heat and Dangerous Climate Impacts; (2) Lower Cooling Costs for Communities Suffering from Extreme Heat; and (3) Expand Offshore Wind Opportunities and Jobs. These initiatives are available in a [White House Fact Sheet](#)

[available here](#). According to the announcement, President Biden's "actions will protect communities from climate impacts already here, including extreme heat conditions impacting more than 100 million Americans this week, and expand offshore wind opportunities and jobs in the United States." [Read more](#).

**Endangered Species Act; Critical Habitats Rule Rescission; Fish and Wildlife Service.** On July 21, the U.S. Fish and Wildlife Service rescinded Trump administration rulemaking regarding the designation of critical habitats under the Endangered Species Act. The final rule, *Endangered and Threatened Wildlife and Plants; Regulations for Designating Critical Habitat* ([87 Fed. Reg. 43433](#)), reverts "certain decisions on critical habitats to the Interior Department. Under the Trump rule, the Fish and Wildlife Service was required to accept private landowners' claims that including an area in a protected habitat would result in economic harm. Under the pre-Trump rule, which the regulation restores, these exclusions are at the discretion of the Interior secretary." The Trump-era rule was considered more favorable to industry concerns and economic development. [Read more](#).

**Interior Department Announces Offshore Wind Energy Areas in the Gulf of Mexico.** On July 20, the U.S. Department of the Interior announced "it is seeking public comments on two draft Wind Energy Areas (WEAs) in the Gulf of Mexico. The first draft WEA is located approximately 24 nautical miles (nm) off the coast of Galveston, TX, covers a total of 546,645 acres, and has the potential to power 2.3 million homes with clean wind energy. The second draft WEA is located approximately 56 nm off the coast of Lake Charles, LA, covers a total of 188,023 acres, and has the potential to power 799,000 homes." [Read more](#). The Bureau of Ocean Energy Management (BOEM) also "has prepared a draft Environmental Assessment (EA) covering the entire Call Area to consider the potential impacts from site characterization (e.g., marine mammal surveys) and site assessment (e.g. installation of meteorological buoys) activities expected to take place following lease issuance." [Read more](#). Both the Interior Department and BOEM will be accepting public comments for 30 days from July 20, 2022 on the draft WEA and EA. During the

comment period, BOEM will also hold two virtual public meetings where the public can learn more about the environmental review process. There will also be an opportunity for participants to ask questions and provide comments on the draft EA. [Read more](#).

**Federal Offshore Leasing Draft Plan.** On July 8, the Department of the Interior (DOI) and Bureau of Ocean Energy Management (BOEM) formally announced the availability of its Proposed Program for the 2023-2028 National Outer Continental Shelf Oil and Gas Leasing Program (National OCS Program), as well as the Draft Programmatic Environmental Impact Statement for the 2023-2028 Program (Draft PEIS), through publication in the Federal Register, as the next step in determining future offshore lease sales and opening the draft plan to public comments. [See the Notice of Availability here](#). The public comment period is open through October 6, 2022 and instructions are available at the above link. As part of the process, the BOEM will also be hosting four virtual meetings to obtain public input: August 23; August 25; August 29; and August 31. These meetings are open-house style where you can speak live with BOEM staff to get your questions answered, as well as to provide written comments. To attend/participate in these meetings, [learn more here](#). For background, the DOI initially announced its planning in a July 1, 2022 press release. The DOI has noted that "The Proposed Program includes no more than ten potential lease sales in the Gulf of Mexico (GOM) and an option for one potential lease sale in the northern portion of the Cook Inlet of Alaska. No lease sales are proposed for the other Alaska planning areas, nor for the Atlantic or Pacific planning areas during the five-year period. Inclusion of an area in the Proposed Program is not a final indication that it will be included in the approved National OCS Program or offered in a lease sale. However, any area or sale not included in the Proposed Program will not be considered for inclusion in the 2023–2028 National OCS Program." [Read more](#). Most recently, "the growing debate over the federal government's plans to either allow more oil and gas production to curb inflation or limit drilling to achieve climate goals spilled into a U.S. Senate spending panel's hearing." On July 13, a number of Democrat Senators questioned Interior Secretary Deb Haaland -- as part of

an Appropriations Subcommittee hearing -- arguing against any offshore leases as part of the five-year proposal. However, Senate Energy and Natural Resources Committee Chairman Joe Manchin (D-WV) said, "I am disappointed to see that 'zero' lease sales is even an option on the table. I hope the Administration will ultimately greenlight a plan that will expand domestic energy production, done in the cleanest way possible, while also taking the necessary steps to get our offshore leasing program back on track to give the necessary market signals to provide price relief for every American." [Read more](#). For further information on the five-year offshore leasing plan, read a detailed fact sheet article here: [Read more](#).

### **Oil and Gas Trade Groups Weigh in on Possible EPA Regulation of Air Quality in Permian Basin.**

On July 21, a number of oil and gas industry groups led by the American Petroleum Institute sent a letter to the U.S. Office of Management and Budget and the Office of Information and Regulatory Affairs objecting to the possible release of a proposed rule by the Environmental Protection Agency (EPA) to regulate ozone air quality in the Permian Basin. No proposed rule has yet been officially released but rule planning is currently working its way through the Biden administration's regulatory affairs offices for review. Although the EPA has classified any such action as "nonsignificant" the letter writers said they "believe such a classification is inappropriate as this action is likely to be economically significant, raises novel energy policy issues at conflict with the President's recently stated priority for '[his] administration [to] us[e] every tool at our disposal to protect American businesses and consumers from rising prices at the pump' following the Russian invasion of Ukraine, and materially alters the budgetary impacts to the United States Treasury due to the impacts on onshore federal oil and natural gas production." To summarize their position, the groups stated that "the potential economic impacts and critical energy policy issues related to this action warrant regulatory review by you and your staff to avoid detrimental impacts, including the potential for increased operating expenses, decreased federal leasing revenues, permitting delays, and decreased oil and natural gas production in the nation's most productive

basin. Regulatory review of this action in the Permian is even more important as we face rising geopolitical volatility and record high energy costs." [Read more](#).

### **AXPC and Trade Groups Deliver Letter to President Biden.**

On July 20, the American Exploration & Production Council (AXPC) was joined by 18 other oil and gas industry trade groups in delivering a letter to President Biden stating they "are troubled by reports that certain groups have urged your administration to declare a climate emergency for the purpose of advancing false climate solutions, such as banning crude exports or halting new domestic oil and gas development on federal lands and waters. This action stands in stark contrast to your administration's clear recognition of the need for greater global supply of oil and natural gas, as demonstrated by your recent trip to Saudi Arabia to encourage OPEC to produce more oil and gas to meet growing global energy needs and help lower prices here at home." The letter writers call upon the administration "to come see American-made energy production and learn about how we are already part of the climate solution. We hope you will reject these ill-conceived policies and work with American energy producers to meet this dual challenge." [Read more](#).

## **FEDERAL – Judicial**

### **Hydraulic Fracturing Emissions – Colorado.**

On July 12, an environmental group sued the U.S. Environmental Protection Agency (EPA) in federal court "to force it to require Colorado to limit pollution from drilling and hydraulic fracturing for oil and methane gas in the Metro Denver area and the Denver Julesburg basin." In [Center for Biological Diversity v. United States Environmental Protection Agency](#) (Case No. Not Yet Docketed), the suit challenges the EPA's approval of a smog plan by the state's Air Pollution Control Division — a branch of the Colorado Department of Public Health & Environment — which was required to submit plans to the EPA detailing smog cleanup strategies. Although the EPA authorized that plan, the environmental litigants argue "that a potential loophole could allow for unlimited pollution from drilling and fracking." The EPA has yet to respond to the lawsuit. [Read more](#).



**Leasing; Shut-In Royalty – Pennsylvania.** On July 7, in *Salevsky v. Seneca Resources Company, LLC* (Case No. 4:19-CV-02180), the U.S. District Court for the Middle District of Pennsylvania addressed a dispute over the shut-in royalty provision of a lease and its effect on the operation of that lease. The Salevskys argued that the lease expired because Seneca did not satisfy the lease's provisions, but the court disagreed because the lessee "timely paid shut-in royalties." The Salevskys countered that "the royalties did not continue the lease because the wells were not shut-in." But the court held that the "shut-in royalty provision applies when the wells 'are shut-in, suspended or otherwise not producing for any reason whatsoever. . . ' [and] Because this broad language does not require the wells to be shut in, the shut-in royalty provision still applies." The Salevskys further countered that the shut-in royalties did not relieve Seneca of "its duties to develop, produce, and market hydrocarbons." But the court held that "there is absolutely nothing in the language of the Shut-In Royalty provision that requires that [the] wells in question must produce paying quantities of gas. So Seneca did not breach the lease's duties." The court also rejected the Salevskys' failure to unitize argument as well as its abandonment argument. [Read more.](#)

## STATE – Legislative

**Hydraulic Fracturing – Arizona.** (*Update to 2/14/22 Report*) HB 2829 died in session upon adjournment. Sponsored by Rep. Myron Tsosie (D), the bill would have prohibited hydraulic fracturing in the state. This piece of legislation is introduced every session in recent years and always fails to advance in the Republican-led legislature. [Read more.](#)

**Hydraulic Fracturing – Arizona.** (*Update to 1/31/22 Report*) SB 1430 died in session upon adjournment. Sponsored by Sen. Juan Mendez (D), the bill would have banned hydraulic fracturing in the state and provided for penalties. With Republican control of both the state House and Senate, the bill was unlikely to receive consideration. [Read more.](#)

**Well Plugging – Pennsylvania.** On July 19, HB 2644

was enacted without the governor's signature. The bill was presented to Gov. Tom Wolf (D) on July 8, but he took no action. Under Pennsylvania law, the governor must sign or veto legislation within 10 days after transmittal, or it becomes law without his/her signature. Sponsored by Rep. Martin Causer (R), the bill allocates designated federal funding to support the Commonwealth's well plugging efforts and update bond amounts "so we can both protect our environment and support Pennsylvania energy production." This bill specifically "instructs the Department of Environmental Protection to use federal funds to create a grant program to target orphaned wells that are unlikely to be chosen for plugging through the department's existing procurement-oriented well plugging program. A portion of the federal funding would be made available for the existing well plugging program as well. Further, the legislation would provide consistency and predictability for conventional oil and gas well operators by fixing the bond amounts as determined by the General Assembly, rather than allowing the Environmental Quality Board to implement bonding increases via regulation." The Act takes immediate effect.

[Read more.](#)

## STATE – Regulatory

**Wyoming Gas and Diesel Price Working Group.** Gov. Mark Gordon (R) has assembled a group of stakeholders to start looking at how to address high gas prices in the state. The Wyoming Gas and Diesel Price Working Group will hold a series of public meetings with the goal for the group to provide a recommendation to the governor. "These meetings will be an opportunity for the working group to receive information as we seek recommendations for reducing the price of fuel at the pump. We have a lot of work to do and greatly appreciate ideas from the public as we move forward," said Brenda Henson, Wyoming Director of the Department of Revenue. The latest meeting, on July 22, was made available for AAPL members through AAPLConnect and the Member News email digests sent to members. [Read more.](#)

## STATE – Judicial

**Leasing; Post-Production Costs; Royalties – Pennsylvania.** On April 29, the Pennsylvania Superior Court addressed a dispute regarding deduction of post-production costs from royalties based upon disputed lease interpretation. In *Dressler Family, LP v. PennEnergy Resources* (Case No. 2022 PA Super 77), the issue before the court was whether a lease provision — setting royalties to be one-eighth (1/8th) of "gross proceeds received from the sale of [gas] at the prevailing price for gas sold at the well" permitted PennEnergy to deduct post-production costs from the royalties. The parties agreed that gas is not, in fact, "sold at the well." The trial court concluded that "the royalty provision was plain and unambiguous, and it permitted the deduction of post-production costs." On appeal the appellant argued that "the trial court erred in this interpretation, and in the alternative, that the lease was ambiguous." Here, the court concluded that "the lease terms are ambiguous" and remanded the case back to the trial court. [Read more.](#)

**Deeds; Ownership – West Virginia.** On May 27, the Supreme Court of Appeals of West Virginia addressed an ownership dispute regarding the underlying mineral rights. In *Cofield v. Anteros Resources Corp.* (Case No. 21-0164), the plaintiffs asserted that they jointly owned a one-quarter interest in the minerals underlying a fifty-acre tract of land in Tyler County, obtained in a sale of delinquent tax properties by deed. "The parties' dispute arose when the Cofields approached Antero after obtaining the deed and offered to lease mineral rights, but Antero informed them that it already produces natural gas from the tract (as well as from the two-hundred-fifty-acre tract also mentioned in the Riggs deed) under a lease granted to it by the Beems, who are successors-in-interest to the Riggs deed grantees" and the plaintiffs sought clarification of ownership. Here, the court noted that where the conveyance described "reserves in and under property hereby reserved[,] without qualification, and the conveyance went on to use the conjunctive "and" to link the fifty-acre tract and the two-hundred-fifty-acre tract when describing the reserves, it concluded that "it is apparent that the deed

intended to create a reservation of certain mineral rights under all of the surface property conveyed." [Read more.](#)

## INDUSTRY NEWS FLASH

► **API releases video urging President Biden to visit American energy sites.** On July 14, the American Petroleum Institute (API) released a new video inviting President Biden "to visit American energy sites and support the American producers who are poised to meet the growing demand for affordable, reliable energy and lead in this global crisis instead of turning to foreign governments for increased supply." API President and CEO Mike Sommers said in the video, "Instead of meeting with foreign governments to ask them to increase energy production, look to reliable U.S. energy sources here at home." This follows the June 23 API and energy association letter urging the same. [Read more.](#)

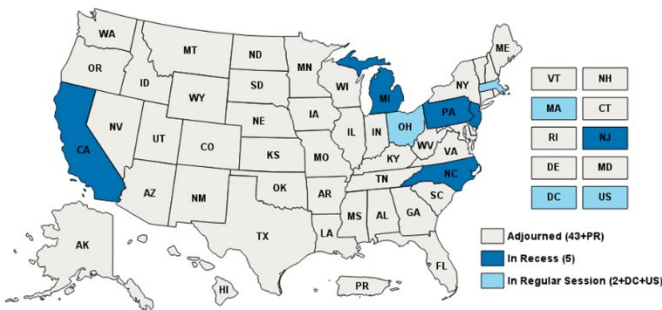
► **Texas oil and gas production taxes hit new monthly record.** The Texas Comptroller's office reported in June that the oil production tax came in at \$679 million, which was up 87 percent from June 2021, while the natural gas production tax was \$439 million, which was up 176 percent from June 2021. As reported by *Rigzone*, both figures were the highest monthly collections on record. The Texas Oil and Gas Association (TXOGA) described June's oil and gas taxes as "remarkable" and TXOGA said "All Texans benefit from a robust oil and natural gas industry that provides hundreds of thousands of good-paying jobs and pays billions towards our state's economy, essential services and public education whether you live in the oil patch or not." [Read more.](#)

► **Natural gas producers join the Oil and Gas Methane Partnership 2.0 Initiative.** Pioneer Natural Resources, Devon Energy and ConocoPhillips will join 80 other oil and gas producing companies in the Oil and Gas Methane Partnership (OGMP) 2.0, "a reporting program aimed at making methane emissions more transparent in the global oil and gas sector. The companies' participation in the

predominantly European OGMP program speaks to growing support for decarbonization among U.S. oil and gas companies that have thus far lagged European peers in setting hard-and-fast climate commitments.” [Read more.](#)

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes:** **Massachusetts** and **Ohio** are in regular session. The **U.S.** Congress is also in session.

The following states will adjourn their 2022 legislative sessions on the dates provided: **California** (August 31), **Michigan** (August 17), the **Pennsylvania** House (September 12) and the **Pennsylvania** Senate (September 19).

**North Carolina** was scheduled to adjourn on July 1, however, the [adjournment resolution](#) calls for the regular session to reconvene on July 26 and for additional mini sessions over the following months.

The **Michigan** legislature met on July 20, where Democratic Gov. Gretchen Whitmer signed a record \$76 billion budget, according to the governor’s [press release](#). Both the House and the Senate recessed again until August 17.

**Indiana** Republican Gov. Eric Holcomb postponed his scheduled special session of the legislature to July 25. The session will now address an abortion ban as well as the state’s budget surplus, reports [WTHR](#). Legislators anticipate the session will span multiple

weeks rather than the few days expected from the original call.

**West Virginia** Republican Gov. Jim Justice has called for a special session of the legislature on July 25, reports [WV Public Broadcasting](#). The only item on the special session agenda is Governor Justice’s [proposal](#) to reduce the state’s personal income tax.

**Arkansas** Republican Gov. Asa Hutchinson scheduled a special session for the week of August 8 to “reduce the rate of our tax collection,” as stated in the governor’s [press release](#). The special session comes in response to the record state surplus and will include tax relief as well as other issues items that will be announced at a future date.

**Signing Deadlines** (by date): **Missouri** Republican Gov. Mike Parson had until July 14 to act on legislation or it became law without signature. **Alaska** Republican Gov. Mike Dunleavy has 20 days from presentment, Sundays excluded, to act on legislation or it becomes law without signature. **Delaware** Democratic Gov. John Carney has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **Louisiana** Democratic Gov. John Bel Edwards has 20 days from presentment to act on legislation or it becomes law without signature. **New Hampshire** Republican Gov. Chris Sununu has five days from presentment to act on legislation or it is pocket vetoed. **New York** Democratic Gov. Kathy Hochul has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **North Carolina** Democratic Gov. Roy Cooper has 10 days from presentment to act on legislation or it becomes law without signature. **Rhode Island** Democratic Gov. Daniel McKee has six days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **South Carolina** Republican Gov. Henry McMaster has two days after the next meeting of the legislature to act on legislation or it becomes law without signature. **Wisconsin** Democratic Gov. Tony Evers has six days, Sundays excepted, to act on legislation or it becomes law without signature.

The following states are currently holding 2022 interim committee hearings: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [Colorado](#), [Connecticut](#), [Delaware](#), [Georgia](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Missouri House](#) and [Senate](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Montana](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [North Dakota](#), [Oregon](#), [Rhode Island](#), [South Carolina House](#) and [Senate](#), [South Dakota](#), [Tennessee](#), [Texas House](#) and [Senate](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#), [Wisconsin](#) and [Wyoming](#). ■

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# GOVERNMENTAL AFFAIRS REPORT

## Highlights At-A-Glance

### FEDERAL – Legislative

**S. 4596 – Transparency and Honesty in Energy Regulations Act of 2022.** On August 1, official bill text was made available for [S. 4596](#), known as the “Transparency and Honesty in Energy Regulations Act of 2022.” Sponsored by Sen. James Lankford (R-OK) and Sen. John Hoeven (R-ND), the bill would “prohibit the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, the Secretary of Transportation, the Chair of the Council on Environmental Quality, and the Federal Energy Regulatory Commission from considering, in taking any action, the social cost of carbon, the social cost of methane, the social cost of nitrous oxide, or the social cost of any other greenhouse gas, unless compliant with Office of Management and Budget guidance.” According to Sen. Lankford, “The social cost of carbon has a big impact on every Oklahoma family and their pocketbook since it is used to justify many parts of Democrats’ illegitimate, progressive climate-change scheme that increases the cost of gasoline, electricity, and other goods. The Supreme Court recently determined in [West Virginia v. EPA](#) that the EPA may not cap greenhouse gas emissions because Congress did not provide the agency with that authority. In the same way, the social cost of carbon metric is clearly outside the scope of EPA’s regulatory authority, and our bill ensures they stop using it.” [Read more.](#)

**S. 4571 – Federal Onshore Leasing.** On July 28, official bill text was made available for [S. 4571](#). Sponsored by Sen. Mike Lee (R-UT), the bill’s purpose is to “reaffirm that the President of the United States lacks the authority to stop oil and gas leasing on Federal public land.” According to Sen. Lee, “President Biden and his administration have used court challenges, so-called reviews, and other tactics

to delay or prevent legally required sales of oil and gas leases on federal land and in federally controlled waters. This delay, along with other Biden Administration policies, has constrained the available domestic supply of energy and placed energy suppliers in Utah and elsewhere in difficult economic circumstances. The American people cannot endure President Biden’s clear-as-mud policies any longer. I’ve introduced legislation to reaffirm that under the Mineral Leasing Act, the President absolutely does not have the authority to hold the country’s domestic energy production hostage. We can end this crusade today and get to work securing American energy independence for generations to come.” [Read more.](#)

**S.J. Res. 55 – Disapproval of NEPA Regulations.** (*Update to 4/25/22 Report*) On August 4, Senate Joint Resolution, S.J. 55, passed the Senate by a narrow 50-47 vote in favor. The vote used a special process under the Congressional Review Act (CRA), which is used to undo regulations issued by the federal government – in this case, environmental rules put forth by the Biden administration. The reason this resolution was able to advance to a vote in the Democrat-led Senate is because the CRA operates under different rules than a typical vote. A petition signed by just 30 senators can discharge a CRA resolution for Senate consideration and they are not subject to a filibuster. The resolution still faces an uphill battle, both in the House of Representatives and the White House, since CRA resolutions also require the president’s signature, and President Biden is unlikely to sign a resolution undoing the actions of his own administration. For background, [S.J. 55](#), is a joint resolution of disapproval to nullify the Biden administration’s “[National Environmental Policy Act \(NEPA\) Implementing Regulations Revisions](#)” that went into effect on May 20, 2022. The Biden

administration rulemaking turns back some of the changes to the nation's permitting laws put in place under the Trump administration and that requires agencies to consider climate change impacts of a proposed project. Sponsored by Sen. Dan Sullivan (R-AK) and supported by all 49 Senate Republicans, the resolution would nullify the recent NEPA revisions. On August 2, 40 organizations threw their support behind reverting back to more industry friendly NEPA rules under the Trump administration. One of the groups, the Western Energy Alliance (WEA), "believes that conducting NEPA analysis to identify environmental impacts and work to mitigate them is a good thing, but when obstructionist groups use NEPA to tie up projects for years in analysis, red tape, and litigation it's no longer about protecting the environment but about saying 'no' to any energy projects, pipelines, roads, and other infrastructure," said Kathleen Sgamma, WEA President. "At a time of runaway inflation and high energy prices, Sen. Sullivan's CRA resolution could help move projects along to increase production of American energy and bring down prices for consumers." [Read more](#). The Independent Petroleum Association of America (IPAA) also publicly applauded Sen. Sullivan "for introducing S.J. Res 55 and his efforts to overturn the Biden Administration's new NEPA rules," saying, "Since its enactment, requirements for the application of NEPA have grown considerably and place a heavy burden on independent oil and natural gas producers. IPAA supports efforts to modernize NEPA and reduce needless delays that hinder American oil and natural gas projects and badly needed infrastructure initiatives across the nation." According to Sen. Sullivan, the "NEPA rules, authored by the White House Council on Environmental Quality (CEQ), undermine important provisions in the *Infrastructure Investment and Jobs Act* intended to streamline key elements of our broken federal permitting process, which Senator Sullivan played a leading role in writing. Additionally, the Biden administration's NEPA rules are a substantial roll-back of the Trump administration's 2020 NEPA regulations, which were the first major modernization of federal environmental reviews since 1978." [Read more](#).

**Inflation Reduction Act of 2022.** As of the publishing of this report, AAPL Governmental Affairs continues to closely monitor developments on the U.S. Senate's budget reconciliation deal, known as the "Inflation Reduction Act of 2022." The final bill is still in flux as of this report and its provisions are reportedly being finalized but no final bill has yet been released except a framework in a 700+ page draft. [Read more](#). The bill is expected to contain numerous climate change provisions, possible tax/fee increases – including certain fees imposed on the oil and gas industry – as well as requirements that federal onshore and offshore lease sales be held in exchange for renewables development, the latter of which was required by Sen. Joe Manchin (D-WV) in order to gain his necessary support. There are also reported side deals to approve at least one pipeline and perhaps others. Portions of this bill have been supported by many in the traditional energy industry as a compromise, while other stakeholders oppose its proposals. AAPL will also be able to make our position known as the process progresses, and we will keep members posted through multiple communication channels once the Senate releases the bill to the public and an analysis is completed. Any bill quickly pushed through the Senate would have to be considered by the House of Representatives, which would have to be called back from its August recess to move on it before September. The federal government's fiscal year ends on September 30, so it appears the Democrat-led Congress is attempting to push the bill through before that date and also avoid any difficulties in moving legislation closer to the midterm elections. [Read more](#).

## **FEDERAL – Regulatory**

### **BLM Grand Staircase-Escalante National Monument.**

On July 29, the Bureau of Land Management (BLM) published a *Notice of Intent To Prepare a Resource Management Plan for the Grand Staircase-Escalante National Monument in Utah and an Associated Environmental Impact Statement* ([87 Fed Reg. 45796](#)) that "intends to revise a Resource Management Plan (RMP) with an associated Environmental Impact Statement (EIS) for the Grand Staircase-Escalante National Monument (GSENM) and by this notice is

announcing the beginning of the scoping period to solicit public comments and identify issues, is providing the planning criteria for public review, and is issuing a call for nominations for areas of critical environmental concern (ACECs). The RMP revision would replace the existing 2020 GSENM RMP and 2020 Kanab-Escalante Planning Area RMP.” According to the BLM, “This RMP will provide a management framework, including goals, objectives, and management direction, to guide Monument management. Purposes and needs serve to frame issue identification, alternatives development, and effects analyses.” The public comment period is open through September 27, 2022. [Read more.](#)

## **FEDERAL – Judicial**

**BLM Oil and Gas Leasing and Development Planning – California.** On July 31, the Bureau of Land Management (BLM), state of California, and various environmental groups entered into a settlement agreement resolving litigation dating back to 2015. In [Center for Biological Diversity v. U.S. Bureau of Land Management](#) (Case No. 2:20-cv-00371-DSF), the litigants originally filed a complaint for declaratory and injunctive relief challenging the 2014 BLM Resource Management Plan (RMP) and 2012 BLM Final Environmental Impact Statement (EIS) for the Bakersfield Field Office, which identified approximately 400,000 acres of public lands and 1.2 million acres of federal mineral estate available for oil and gas leasing, alleging that the 2012 EIS failed to disclose and adequately analyze the environmental impacts of approving the 2014 RMP, including impacts from hydraulic fracturing in violation of the National Environmental Policy Act. The terms of the “settlement include a moratorium on new oil and gas leasing [in the area] while the BLM conducts a more thorough review. The agency specifically agreed to conduct a new supplemental environmental impact statement before holding any new lease sales. The California officials will also reserve the right to dispute or challenge the replacement statement.” The settlement effectuates a reversal of a Trump-era decision that would have opened central California to new oil and gas drilling on public lands and will prohibit the federal government from leasing any of the land for drilling

until the new environmental review is completed. [Read more.](#)

**Bankruptcy Petitions; Unpaid Oil and Gas Royalties – Texas.** On April 7, the U.S. Bankruptcy Court for the Southern District of Texas addressed a dispute regarding unpaid oil and gas royalties subject to a bankruptcy petition. In *In re Lilis Energy, Inc.* (Case No. 20-33274), the court explained that after “filing for bankruptcy, Lilis Energy failed to pay pre-petition mineral interest royalties due to Tilden Capital Minerals, LLC. Now, Tilden seeks recovery of those unpaid royalties. However, Lilis’s Plan of Reorganization treats claims for unpaid royalties as general unsecured claims. According to the Trustee of Lilis’s Liquidating Trust, a general unsecured claim is all Tilden is entitled to at this stage. Tilden relies on Texas law to argue that the unpaid royalties held by Lilis were never Lilis’s property but were instead held in trust for Tilden’s benefit. Hence, Tilden maintains that Lilis could not use the unpaid royalties to satisfy Lilis’s other creditors because the royalties were never part of Lilis’s estate. Through a request for relief from the Confirmation Order, Tilden contends that Lilis must either pay the unpaid royalties still in Lilis’s possession or be held accountable for the wrongful conversion of Tilden’s property.” Here, the court held that “Lilis’s Plan plainly addressed Tilden’s claim for unpaid royalties. Tilden failed to object to the Plan’s treatment of unpaid royalty claims and failed to appeal the Plan’s confirmation.” Thus, “Tilden is now bound by the Plan’s treatment of unpaid royalty claims” and Tilden’s request for relief from the Confirmation Order was denied. [Read more.](#)

## **STATE – Legislative**

**Mineral Rights – Missouri.** (*Update to 3/14/22 Report*) HB 2862 died in session adjourned May 30, 2022. Sponsored by Rep. Bruce Sassmann (R), the bill would have provided “that mineral rights revert to the landowner if unused for twenty years.” [Read more.](#)

**Independent Contractor Status – Missouri.** (*Update to 2/14/22 Report*) SB 863 died in session adjourned May 30, 2022. Sponsored by Sen. Bob Onder (R),

the bill would have provided for the recognition of independent contractor status based upon provided criteria. [Read more.](#)

## **STATE – Regulatory**

**Air Quality Permitting; Air Dispersion Modeling Guidelines – New Mexico.** On July 26, the New Mexico Environment Department (NMED) Air Quality Bureau announced a new ePermitting Portal available for submittals for two types of permitting actions: Notices of Intent (oil and gas facilities only); and Applications for General Construction Permits for Oil and Gas Facilities (GCP-O&G). [Read more.](#) On the same day, the NMED Air Quality Bureau announced the release of its latest NM Air Dispersion Modeling Guidelines. “The main changes to the Guidelines include the following: Background concentrations have been updated; SO<sub>2</sub> modeling requirements for Permian Basin sources now recommend modeling of surrounding sources; PM<sub>2.5</sub> secondary formation estimation now includes local MERPs [Modeled Emission Rates for Precursors] values; Meteorological data recommendations have been updated; Additional references for existing content have been added; and ambiguous language has been clarified, where possible.” [Read more.](#) According to the NMED, “Air quality modeling is a mathematical simulation that shows how air pollutants move and interact in the atmosphere and affect air quality. The Environment Department conducts and provides guidance to the regulated community on air modeling to check compliance with air quality standards.” [Read more.](#)

**Oil and Gas Ozone Regulations – New Mexico.** *(Update to 7/11/22 and 9/7/21 Reports)* On August 5, the New Mexico Environment Department (NMED) new emissions rule went into effect. Throughout this year and last, AAPL has provided members with multiple opportunities to submit public comment and participate in the rulemaking process. In fact, it was reported that the rule was “developed with input from more than 520 stakeholders representing industry, environmental groups and the public.” According to NMED, the “new rule will reduce emissions of ozone precursor pollutants – volatile organic compounds and

oxides of nitrogen – by approximately 260 million pounds annually and will have the co-benefit of reducing methane emissions by more than 851 million pounds annually [and] compliance requirements for new and existing oil and gas operations in New Mexico counties with high ozone levels will take effect. These areas are Chaves, Doña Ana, Eddy, Lea, Rio Arriba, Sandoval, San Juan and Valencia counties.” [Read more.](#) For background, on July 6, 2022, the NMED announced that Part 20.2.50 NMAC Oil and Gas Sector – Ozone Precursor Pollutants was filed with the New Mexico State Records administrator pursuant to Section 14-4-3 of the New Mexico State Rules Act. [Read more.](#) The final rule was published in Issue 14 of the NM Register on July 26, 2022, with an effective date of August 5, 2022. Previously, the [New Mexico Environmental Improvement Board held a public hearing](#) on September 20, 2021 on the proposed rulemaking and a redline of the amended portions of the regulation was [available here](#). The adopted regulations target emissions of ozone precursor pollutants from the oil and natural gas sector. [Read more.](#)

**Bank Boycott of Fossil Fuel Industry – West Virginia.** *(Update to 6/27/22 Report)* West Virginia has followed through with its plan to deem financial institutions ineligible for state banking contracts on the grounds that they boycott fossil fuel companies. On July 28, the West Virginia Treasurer, Riley Moore, released the restricted financial institution list that includes BlackRock, Goldman Sachs, JPMorgan Chase, Morgan Stanley, and Wells Fargo. [Read more.](#) “As the blacklist goes into effect, all five firms will no longer be eligible for state contracts and any existing contracts will be void. The news means the firms will lose access to \$18 billion in annual inflows and outflows.” For background, on June 13, State Treasurer Moore announced he sent notices [to six major financial institutions informing them of a possible boycott](#) “on doing business with West Virginia government entities. This move by the West Virginia state government implements a state law passed earlier this year that enables ‘the [West Virginia] Treasurer’s Office to create a Restricted Financial Institution List consisting of financial institutions that



have publicly stated they will refuse, terminate, or limit doing business with coal, oil, or natural gas companies without a reasonable business purpose. Notably, this law would then preclude these financial institutions from being 'eligib[le] for contracts for state banking services.'" According to the Treasurer's Office, "Notices were issued on Friday, June 10. The financial institutions that have been sent notices will officially be placed on the list in 45 days, unless they respond with information demonstrating they are not engaged in a boycott of fossil fuel companies. The institutions have 30 days from the time they receive the initial notice to submit a response to the Treasurer's Office."

[Read more.](#)

## STATE – Judicial

**Regional Greenhouse Gas Initiative Adoption – Pennsylvania.** (*Update to 5/9/22 Report*) On July 25, a Pennsylvania court reinstated an earlier preliminary injunction against Gov. Tom Wolf's (D) planned entry into the Regional Greenhouse Gas Initiative (RGGI) – a cap-and-trade emissions program for power plants encompassing 12 Northeastern states – aimed at addressing greenhouse gas emissions. The judge's order in [Ziadeh v. Pennsylvania Legislative Reference Bureau](#) (Case No. 41 M.D. 2022) "stops the state from implementing, administering, or enforcing a final rulemaking that would put Pennsylvania" into the RGGI. The court's previous July 8 order was temporarily on hold pending appeals from Pennsylvania's Department of Environmental Protection and Environmental Quality Board. According to Bloomberg Government, "That ruling was then automatically stayed, which happens in Pennsylvania whenever an injunction is issued against a state governmental entity and the state appeals to the Supreme Court." In the current order, the judge found that RGGI's opponents "successfully raised substantial questions about whether the rulemaking constitutes an impermissible tax." Court hearings on this case will begin in September. For background, in May, Gov. Wolf announced Pennsylvania has entered the RGGI. [Read more.](#) Republican lawmakers fought the adoption of RGGI arguing it will imperil safe and reliable energy sources used to power

Pennsylvania. "Joining RGGI is a bad idea because it will increase electricity prices, even though higher energy prices are already contributing to inflation," said Michelle Bloodworth, the president of America's Power, a trade group representing coal interests. "It will cause the premature retirement of coal-fired power plants at the same time electricity grid operators are concerned that more coal retirements could cause electric reliability problems; and it will have no effect on climate change because other countries, especially China, continue to build more coal-fired power plants and increase their use of coal." [Read more.](#)

**Leasing; Regulatory Taking – Texas.** On August 1, the Texas Court of Appeals, Fifth District, affirmed a jury's verdict finding the city of Dallas liable for a regulatory taking by failing to approve special use permits necessary to drill gas wells inside the city in *City of Dallas v. Trinity East Energy, LLC* (Case No. 05-20-00550-CV). The city must pay more than \$33 million in restitution to a gas driller to whom it leased land. The background of the case began when the city leased some of its property in northwest Dallas to Trinity East Energy LLC for \$19 million in 2008. The lease covered 2,000 acres and identified one drill site location and three other tracts as proposed drill site locations. Then-city manager Mary Suhm said, in a letter to Trinity, she was "reasonably confident" that the company would be granted the special use permits needed to drill gas from the wells, but warned she could make no "guarantee." Years of protests by citizens concerned about the health and environmental effects of drilling followed. In August 2013, the city council declined to approve the permits. Shortly after, the city passed an ordinance banning urban drilling. Trinity's leases by then had expired, and the mineral interests reverted back to the city. Here, the court ruled that without the permits Trinity was impeded from drilling at the leased sites, and coupled with the city's denial of a permit for another well close by, it was impossible for the company to drill in the area, and this supported the regulatory taking claim.

[Read more.](#)

**Deeds; Mineral Interests – Texas.** On May 12, in *Hayne v. DOH Oil Company* (Case No. 11-20-00158-

CV), the Texas Court of Appeals, Eleventh District, addressed a dispute over certain sheriff's deeds and an action to quiet title. Arising out of a dispute over property in Martin County following a foreclosure to satisfy delinquent property taxes, "the disputed property was sold by sheriff's deeds in 2008 and 2009. Over a decade later, Mary Haynes (Appellant) sued to try title, alleging that the sheriff's deeds are void for an inadequate property description. In the alternative, she also sued to quiet title, alleging that, in relevant part, the sheriff's deeds only conveyed *royalty interests* and not her entire mineral estate." DOH Oil Company and other defendants filed motions for traditional summary judgment, "asserting that Appellant's claims were procedurally barred under the Texas Tax Code's statute of limitations." Some of the defendants "also asserted that the sheriff's deeds, in relevant part, conveyed more than just royalty interests" as well as an additional assertion from one of the defendants "that Appellant's claims were barred by the Tax Code's requirement that Appellant deposit funds into the trial court's registry, or file an affidavit of inability to do so, before bringing a claim challenging a tax sale." The trial court granted the defendants' motions for summary judgment and later signed a final judgment incorporating its previous rulings and rendering judgment "that Appellant take nothing on her claims." Here, the appellate court affirmed the trial court's ruling. [Read more.](#)

**Leasing; Drainage – Texas.** On May 6, in *Rosetta Resources Operating, LP v. Martin* (Case No. 20-0898), the Texas Supreme Court addressed a dispute over lease interpretation as it related to drainage. As stated by the court, "the parties dispute the meaning and application of an express covenant to protect against drainage. The covenant appears in a unique and mistake-ridden lease addendum, which expressly limits the location of wells that may trigger the lessee's obligation to protect against drainage but does not directly address the location of wells that may cause drainage. The lessor plaintiffs argue that the covenant's language allows for separate triggering and draining wells, and that the lessee breached the covenant by failing to protect against drainage from a non-triggering well. The lessee defendant responds

that it is only obligated to protect against drainage from the limited class of triggering wells." Here, the court held that "the addendum is ambiguous because both interpretations of this poorly drafted covenant are reasonable." The court also found that "the court of appeals improperly reversed the trial court's take-nothing summary judgment on the lessors' tort and statutory claims, which they did not challenge on appeal. We therefore reverse the court of appeals' judgment, reinstate the trial court's summary judgment in part as to the lessors' tort and statutory claims, and remand for further proceedings on their claim for breach of the lease." [Read more.](#)

## **INDUSTRY NEWS FLASH**

► **Oil and gas industry supports Gulf of Mexico offshore wind development plan.** According to July 26 reporting by the *Washington Post*, the oil and gas industry "sees an opportunity for workers with experience on offshore drilling rigs to transfer their skills to offshore wind farms, according to interviews with industry officials." This comes as President Biden recently announced plans for offshore wind development in the Gulf of Mexico opening up nearly 700,000 acres. "We're all for wind energy in the Gulf," said Mike Moncla, president of the Louisiana Oil and Gas Association, representing more than 1,110 independent producers and service companies. "Putting in platforms and using crew boats — those things are definitely transferrable from offshore drilling platforms to offshore wind turbines." [Read more.](#)

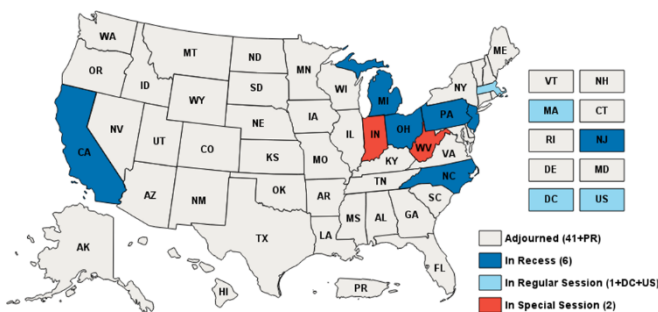
► **OPEC+ agrees to small boost in oil output.** Last Wednesday, OPEC+ members agreed to a small increase in oil production quotas for September at 100,000 barrels per day. This, however, falls short of the increases the Biden administration has been seeking especially during the president's trip to Saudi Arabia last month. [Read more.](#)

► **Texas adds record number of upstream oil and gas jobs.** As reported on July 26, by *The Center*

Square, “Texas added the greatest number of jobs in the oil and natural gas industry in June in recorded state history. More than 6,100 jobs were added in the upstream oil and natural gas sector from May to June, the highest monthly increase in recorded state history.” And the industry is expected to experience even more growth, says the Texas Independent Producers and Royalty Owners Association, “pointing to a U.S. Energy Information Administration forecast for the Permian Basin in West Texas and southeastern New Mexico.” [Read more.](#)

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes:** The **U.S.** House of Representatives is in August recess. The **U.S.** Senate is in session.

The following states will adjourn their 2022 legislative sessions on the dates provided: **Michigan** (August 17), **New Jersey** (September 6), the **Pennsylvania** House (September 12), the **Ohio** House (September 14), the **Pennsylvania** Senate (September 19) and the **Ohio** Senate (September 21).

**North Carolina** was scheduled to adjourn on July 1, however, the [adjournment resolution](#) calls for the regular session to reconvene for mini sessions over the coming months. The legislature reconvened on July 26 and again on July 28. The next three-day session is scheduled for August 23.

**Indiana** Republican Gov. Eric Holcomb convened the legislature into a special session on July 25. The

session will address an abortion ban as well as the state’s budget surplus, reports [WTHR](#). Legislators adopted a [concurrent resolution](#) allowing themselves to recess or adjourn the special session for more than three consecutive days. According to state code, the special session must end by August 14.

**West Virginia** Republican Gov. Jim Justice called the legislature into a special session on July 25. In addition to Governor Justice’s [proposal](#) to reduce the state’s personal income tax, the special session was [amended](#) to “clarify and modernize” the state’s abortion-related laws.

**Arkansas** Republican Gov. Asa Hutchinson scheduled a special session for the week of August 8 to “reduce the rate of our tax collection,” as stated in the governor’s [press release](#). The special session comes in response to the record state surplus and will include tax relief as well as other issues items that will be announced at a future date.

**Signing Deadlines** (by date): **Alaska** Republican Gov. Mike Dunleavy has 20 days from presentment, Sundays excluded, to act on legislation or it becomes law without signature. **North Carolina** Democratic Gov. Roy Cooper has 10 days from presentment to act on legislation or it becomes law without signature.

The following states are currently holding 2022 interim committee hearings: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [Colorado](#), [Connecticut](#), [Delaware](#), [Georgia](#), [Idaho](#), [Illinois](#) [House](#) and [Senate](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Missouri](#) [House](#) and [Senate](#), [Minnesota](#), [Mississippi](#) [House](#) and [Senate](#), [Montana](#), [Nevada](#), [New Hampshire](#) [House](#) and [Senate](#), [New Mexico](#), [North Dakota](#), [Oregon](#), [Rhode Island](#), [South Carolina](#) [House](#) and [Senate](#), [South Dakota](#), [Tennessee](#), [Texas](#) [House](#) and [Senate](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#), [Wisconsin](#) and [Wyoming](#). ■

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# GOVERNMENTAL AFFAIRS REPORT

## Highlights At-A-Glance

### FEDERAL – Legislative

#### **H.R. 5376 – The Inflation Reduction Act of 2022.**

On August 16, President Joe Biden signed the \$739 billion reconciliation budget bill, known as the Inflation Reduction Act of 2022 (IRA), into law quickly after being adopted in the U.S. Senate and House of Representatives in a surprise move following months of stalled negotiations among Democrat lawmakers. No committee hearings were held prior to passage and no opportunity was provided for public input given that the bill passed the Senate at breakneck speed in the wee hours of a weekend vote without due notice. Just days later, the bill was hurriedly approved by the House of Representatives in a rare August recess vote. The 730-page IRA, [H.R. 5376](#), passed along strictly partisan lines with no Republicans voting in favor of the measure as they objected to most of the taxing and spending provisions. Described as the climate, health care and tax package, the IRA contains numerous provisions impacting traditional energy as well as renewables development. While some oil and gas industry stakeholders opposed the bill others supported it because it revives stalled federal onshore and offshore leasing, provides various tax breaks, carbon sequestration benefits and other incentives for oil and gas producers. The bill also provides a broad-based network of provisions to help fund the energy transition towards renewable and “clean” energy sources. The legislation, however, increases federal oil and gas royalties, rents, minimum bids for operations on federal lands, and reimposes the long dormant Hazardous Substance Superfund financing rate tax on crude oil and oil product imports. Additionally, a first ever “waste emissions charge” for methane emissions from oil and gas production and onshore gas pipelines and gas storage will be imposed. Royalties will also be imposed on all extracted natural gas, including gas vented, flared,

or leaked, with exceptions for safety. To review a comprehensive AAPL Governmental Affairs bill analysis and fact sheet, [Read more here.](#)

**S. 4768 – Taxing Big Oil Profiteers Act.** On August 19, official bill text was made available for [S. 4768](#), known as the Taxing Big Oil Profiteers Act. Sponsored by Sen. Ron Wyden (D-OR), the bill would amend the Internal Revenue Code “to tax excess profits of large oil and gas companies, to impose a tax on the repurchase of stock by large oil and gas companies, [and] to end the use of the [certain methods] of accounting by large oil and gas trades or businesses.” According to *The Hill*, the bill “would impose a 21 percent tax on the excess profits of oil and gas companies making more than \$1 billion annually. Excess profits are determined by current profits minus a normal 10 percent return on investment.” The measure “would also impose a 25 percent excise tax on oil and gas corporation stock repurchased by the company.” Unlike the Inflation Reduction Act (above), this bill would require 60 votes to advance – thus requiring unlikely support from at least 10 Republican senators – and is not expected to advance prior to the midterm elections. [Read more.](#)

**S. 4733 – Use it or Lose it Act.** On August 9, official bill text was made available for [S.4733](#), known as the Use it or Lose it Act. Sponsored by Sen. Catherine Cortez Masto (D-NM), the bill would “amend the Mineral Leasing Act to provide for certain reforms to the process relating to applications for permits to drill and the eligibility requirements for prospective bidders in lease sales.” Specifically, the bill requires federal leases be utilized in order to participate in lease sales; sets forth that priority will be given for applications for permits to drill that commit to “climate mitigation” and other forms of environmental mitigation including those related to plugging wells; provides that an application

for a permit to drill that is approved shall expire on the date that is one year after the date of the approval of the application for a permit to drill if unused; and an applicant for a permit to drill that has a higher than average number of unused approved applications for permits to drill will not be eligible for a new application for a permit to drill. [Read more.](#)

## **FEDERAL – Regulatory**

### **BLM Environmental Impact Statement – Alaska.**

On August 18, the Bureau of Land Management (BLM) published a *Notice of Intent To Prepare an Environmental Impact Statement To Consider the Impacts of Opening Lands Subject to ANCSA 17(d)(1) Withdrawals, Including Lands Within the Bay, Bering Sea-Western Interior, East Alaska, Kobuk-Seward Peninsula, and Ring of Fire Planning Areas; Alaska (87 Fed. Reg. 50875)* to consider the effects of opening certain lands subject to withdrawals and by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues. According to reporting from *E&E News*, “The Biden administration plans to conduct an in-depth analysis of a series of public land orders issued in the final weeks of the Trump administration that sought to open 28 million acres of federal lands in Alaska to oil and gas development and mining activity.” This will begin the process of “studying so-called legal deficiencies in five public land orders signed in January 2021 by then-Interior Secretary David Bernhardt.” The public comment period is open through October 17, 2022. [Read more.](#)

**New Director of U.S. Geological Survey.** On August 15, the Interior Department announced David Applegate was sworn in as the new Director of the U.S. Geological Survey (USGS). As reported by the American Exploration & Production Council, “In this role, Applegate will be responsible for all activities of the USGS, including oversight of the occurrence and distribution of national and global geologic resources including a wide range of current and future energy and mineral resources; the potential environmental and socioeconomic effects associated with geologic resource occurrence and use; and the global supply and flow of nonfuel mineral commodities.” [Read more.](#)

## **FEDERAL – Judicial**

**Federal Leasing – 5th Circuit (Louisiana).** On August 17, in the ongoing case, *Louisiana v. Biden* (Case No. 21-30505), the U.S. Court of Appeals for the Fifth Circuit, on appeal from the U.S. District Court for the Western District of Louisiana, reversed the lower court ruling which issued a nationwide preliminary injunction enjoining President Biden and various Department of Interior officials from pausing federal oil and gas lease sales. This temporary win for the Biden administration providing permission to once again pause energy leasing on federal lands and waters was short-lived when the very next day the district court issued a permanent injunction against the moratorium on new oil and gas leasing. The district court ruled the prior ruling allowing the pause “was in violation of the Mineral Leasing Act (MLA) and Outer Continental Shelf Lands Act (OCSLA), saying it took steps reserved for Congress.” [Read more.](#) The latest ruling comes amidst “a dispute between the administration and 13 energy-producing states led by Louisiana that sued to force Biden to resume leasing he paused a week after taking office. After the lower court last year issued its preliminary injunction against the leasing moratorium, the government appealed.” Although with the passage of the Inflation Reduction Act, which requires the restart of federal leasing, the case may ultimately be deemed moot as a matter of law. [Read more.](#)

### **Overriding Royalties; Post-Production Costs – North Dakota.**

On August 3, in *Highline Exploration, Inc. v. QEP Energy Co.* (Case No. 21-3662), the U.S. Court of Appeals for the Eighth Circuit, on appeal from the U.S. District Court for the District of North Dakota, addressed a case in which the plaintiffs alleged QEP breached overriding royalty interest assignments held by them because QEP deducted post-production costs from royalties it paid. The district court ruled in favor of QEP and here the appellate court affirmed. In the case, “the overriding royalty owners claimed that their interests outlined in the lease assignments provided that payment would be ‘free and clear of all costs and expenses’ for development and operation, exempted them from bearing any costs for gathering, processing,

or transporting oil and natural gas downstream. The producer denied that its deductions were improper, arguing that the terms ‘development’ and ‘operation’ commonly were understood to reference on-lease production costs, and did not extend to services performed downstream. The producer relied on the generally accepted rule that, absent express language to the contrary, overriding royalty interests must bear their proportionate share of post-production costs.” While this case was pending, the North Dakota Supreme Court issued its opinion in [Blasi v. Bruin E&P Partners, LLC](#) (Case No. 2021 ND 86), a similar inquiry in which the court held that “as a matter of law, lessees may deduct transportation costs from royalties on the production of oil to be paid ‘free of cost’ into a pipeline.” The *Blasi* court “interpreted the parties’ lease based on its plain language; interpretations of that language by other jurisdictions and treatises; and, most importantly, in the context of commercial realities that seek to avoid uncertainty over where royalties traditionally are valued.” The Eighth Circuit relied upon the *Blasi* opinion, in addition to others, in analyzing the case before it. Here, in affirming summary judgment in favor of the producer, “the Eighth Circuit held that overriding royalty interests that are ‘free and clear’ of development and operation costs do not exempt the interests from costs incurred to gather, process, or transport oil and natural gas. Rather, the Court explained that the ‘free and clear’ clause in the lease assignments clarified *which* costs were deductible from the overriding royalty interests. Accordingly, the Court recognized that, under North Dakota law, overriding royalty interests are subject to post-production costs unless the parties expressly agree otherwise. The Court also considered the scope of ‘operation’ costs, concluding that an overriding royalty interest’s exemption from such costs does not extend to post-production costs.” As noted by law firm, Holland & Hart, “the Eighth Circuit underscored that its interpretation of royalty instruments under North Dakota law is aligned with the laws and common industry understanding of other oil and gas producing jurisdictions.” [Read more.](#)

## STATE – Regulatory

### **Offshore Wind Energy Development – California.**

On August 10, the California Energy Commission adopted “the country’s most ambitious offshore wind development targets — the latest move in a statewide drive to accelerate the clean electricity transition. The targets involve the deployment of 3 gigawatts to 5 gigawatts of offshore wind by 2030 and 25 gigawatts by 2045.” [Read the complete Commission Planning Report here.](#) Commission Chair David Hochschild said, “These ambitious yet achievable goals are an important signal of how committed California is to bringing the offshore wind industry to our state. This remarkable resource will generate clean electricity around the clock and help us transition away from fossil fuel-based energy as quickly as possible while ensuring grid reliability.” [Read more.](#)

### **Governor Sets Climate and Energy Goals –**

**California.** Governor Gavin Newsom (D-CA) has issued a [five-point legislative plan](#) to achieve proposed climate and energy goals. As reported by the *Los Angeles Times*, “The proposal calls for lawmakers to enact more aggressive targets on state laws that reduce greenhouse gases and increase the use of renewable energy.” The proposal includes a call to codify statewide carbon neutrality goals; more ambitious greenhouse gas emissions goals; establish a pathway to 100% clean electricity to retail customers; increase well setbacks; and establish a clear regulatory framework for carbon removal and carbon capture, utilization and sequestration. Anthony York, a spokesman for Gov. Newsom, “said that with just three weeks left before lawmakers adjourn for the year, the end of the session provides an opportunity for the governor to propel climate legislation through the statehouse. The governor thinks now is the right time to take bold action.” [Read more.](#)

**Oil and Gas Regulations – Colorado.** According to recent reports, an effort to “have a new independent commission oversee regulation of oil and gas development in Colorado won’t be considered by state voters this year, after decisions by the state title-setting board and the Colorado Supreme Court.”

The “Colorado Attorney General’s Office said the proposal didn’t just create a commission, but included language seeking to strip state environmental regulators ‘of their authority to regulate matters in their spheres of expertise if those matters touch on oil and gas operations.’ It would have let the new commission veto decisions by state air, water, health and solid/hazardous waste regulators that affect oil and gas operations, according to the filing.” [Read more.](#)

**Energy Transition Act Rulemaking, Ozone Precursor Rule, and Ozone Advance Program – New Mexico.** To follow up prior reporting from AAPL Governmental Affairs, on August 18, the New Mexico Environment Department (NMED) announced it will hold a Stakeholder Engagement Event on September 1, 2022 at the San Juan College School of Energy, Merrion Rooms A & B, 5301 College Boulevard, Farmington, NM, 87402. The event will provide an in-person and virtual opportunity to learn about, and provide input on, the Air Quality Bureau’s Energy Transition Act Rulemaking, Ozone Precursor Rule, and Ozone Advance Program. For more information on attending, [Read more.](#) The Air Quality Bureau (AQB) will also be holding an industry workshop regarding compliance with the newly effective [Ozone Precursor Rule](#) the same day. Staff from the AQB will be reviewing portions of the rule, compliance guidelines and frequently asked questions. In-person and virtual attendance options will be provided. [Read more.](#) For more information about the NMED regulatory programs noted above, [Read more.](#)

**Hydraulic Fracturing Ban – New York.** New York Republican gubernatorial candidate Lee Zeldin, a U.S. congressman from the state, has called for an end to the state’s hydraulic fracturing ban and seeks to open up the shale rich Western Slope area of the state to natural gas development and production. The ban was initially put in place administratively in 2014 by then-Gov. Andrew Cuomo and then codified into law by the Democrat-controlled legislature in 2021. “Each well could bring in millions of dollars in direct economic benefits that bring in spin off jobs as well as direct jobs from the drilling itself,” said James Hanley, a senior policy analyst with the Empire Center think tank.

In most recent polling, the incumbent Democrat governor Kathy Hochul holds a single-digit advantage over Zeldin with less than three months to go before the November general election. [Read more.](#)

## **STATE – Judicial**

**Marketable Title Act; Duhig Rule – Ohio.** On July 26, in [Senterra, Ltd. v. Winland](#) (Case No. 2022-Ohio-2521), the Ohio Supreme Court was “asked to determine the ownership rights to an oil and gas interest that has been severed from its surface property.” Here, the owner of the surface property at issue sought to quiet title to the disputed oil and gas interest in its favor and urged the court to apply the rule of equity set forth in the 1940 Texas Supreme Court case, *Duhig v. Peavy-Moore Lumber Co.*, known as the *Duhig* rule “which estops a grantor from claiming title to a severed oil and gas interest when doing so would breach the grantor’s warranty as to the title and interest purportedly conveyed to the grantee.” [Read more.](#) The heirs to the oil and gas interest argued that the *Duhig* rule was inapplicable and that Ohio’s Marketable Title Act (MTA) applied to the interest and gives them marketable record title to it. Here, the court affirmed the lower court ruling and declined to apply the *Duhig* rule, “as it is inapplicable to the facts of this case. Moreover, there is an unbroken chain of record title to the oil and gas interest at issue for at least 40 years following the root-of-title deed to the property.” As noted by law firm, Vorys, “in its decision, the Court clarified that the *Duhig* rule only applies if the grantor owns the exact interest needed to remedy the breach of warranty at the time of the conveyance.” Thus, the MTA applied and preserved the heirs’ oil and gas interest. [Read more.](#)

**Leasing; Well Obligations – Texas.** In *TotalEnergies E&P USA, Inc. v. Dallas/Fort Worth International Airport Board* (Case No. 02-20-00054-CV), the Texas Court of Appeals, Second District (Fort Worth), considered whether a contractual obligation to drill “fourteen new wells” can be satisfied by drilling vertical as opposed to horizontal wells. The court held that it can under the lease agreement’s plain language and



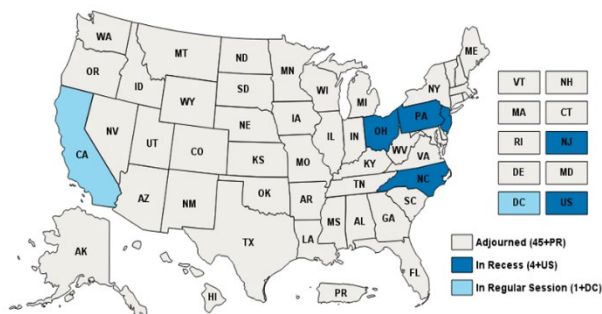
reversed the trial court’s judgment, instead ruling in favor of the operators. In the case, an operator informed the Board that it “would drill vertical wells to fulfill the drilling commitment, even though vertical wells had never before been drilled on the leasehold.” The Board filed a lawsuit seeking, among other items, “a declaration that the drilling commitment required horizontal wells.” The operators claimed the lease terms could be satisfied by drilling vertical wells. Here, the court found that the agreement does not indicate that “only horizontal wells could satisfy the commitment or that vertical wells were excluded from the wells referred to. And the remainder of the lease shows that the parties limited the type of well when necessary. While we recognize that vertical wells had never been drilled on the leasehold before and that the parties likely contemplated horizontal wells, we cannot go beyond the plain language of the lease to construe it in line with DFW’s desired interpretation.” [Read more.](#)

## **INDUSTRY NEWS FLASH**

► **Permian oil output projected to rise to record level in September.** On August 15, the U.S. Energy Information Administration (EIA) projected that oil output in the Permian in Texas and New Mexico is due to rise 79,000 barrels per day (bpd) to a record 5.408 million bpd in September. The EIA also reports total output in the major U.S. shale oil basins will rise 141,000 bpd to 9.049 million bpd in September, the highest since March 2020. [Read more.](#)

## **LEGISLATIVE SESSION OVERVIEW**

### **States in Session**



**Session Notes:** **California** is in regular session. The **U.S. Congress** is in summer recess.

The following are in recess until the dates provided: **Michigan** (September 7), the **Pennsylvania House** (September 12), the **Ohio House** (September 14), the **Pennsylvania Senate** (September 19) and the **Ohio Senate** (September 21).

**California** is scheduled to adjourn its legislative session on August 31. **Michigan** lawmakers reconvened the regular session for one day on August 17 and both chambers recessed again until September 7.

The following states are currently holding 2022 interim committee hearings: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [Colorado](#), [Connecticut](#), [Delaware](#), [Hawaii](#), [Georgia](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Massachusetts](#), [Missouri House](#) and [Senate](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [North Dakota](#), [Ohio](#), [Oregon](#), [Rhode Island](#), [South Carolina House](#) and [Senate](#), [South Dakota](#), [Tennessee](#), [Texas House](#) and [Senate](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#), [Wisconsin](#) and [Wyoming](#).

The following states are currently posting 2023 bill drafts, pre-files and interim studies: [Florida](#), [Kentucky](#), [Montana](#), [Nevada](#), [North Dakota](#), [Utah](#), [Virginia](#) and [Wyoming](#). ■

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# GOVERNMENTAL AFFAIRS REPORT

## Highlights At-A-Glance

### FEDERAL – Legislative

**H.R. 8749 – Protecting the Permian Basin Act of 2022.** On August 26, Rep. August Pfluger (R-TX) introduced [H.R. 8749](#), known as the Protecting the Permian Basin Act of 2022. The bill would repeal the new methane emissions charge imposed on oil and gas producers that was included in the recently enacted Inflation Reduction Act of 2022. ([Access the comprehensive AAPL Fact Sheet here.](#)) Rep. Pfluger – who represents constituents in the Permian Basin – describes his legislation as “a bill to strike down the Democrats’ latest attack on the oil and gas industry.” The bill, however, has little chance of advancing in the Democrat-controlled Congress but may be considered if Republicans retake the House of Representatives this November. [Read more.](#)

**H.R. 8678 – American Energy is Global Security Act of 2022.** On August 24, official bill text was made available for [H.R. 8678](#), known as the American Energy is Global Security Act of 2022. Sponsored by Rep. Claudia Tenney (R-NY), the bill would “direct the Secretary of Energy to restrict certain grants to any State that has in effect a law prohibiting hydraulic fracturing within such State.” In effect, the bill would incentivize states like New York to repeal the statewide ban on hydraulic fracturing by withholding funding from certain federal grant programs. “New York State is sitting on top of natural gas formations that could power our state with clean energy for decades,” said Rep. Tenney. “Americans need clean energy at lower costs now and delivering on this commitment can and should start right here in New York.” [Read more.](#)

### FEDERAL – Regulatory

**BLM Bears Ears National Monument – Utah.** On

August 30, the Bureau of Land Management (BLM) published a *Notice of Intent To Prepare a Resource Management Plan for the Bears Ears National Monument in Utah and an Associated Environmental Impact Statement* ([87 Fed. Reg. 52992](#)), that announces the BLM intends to revise a resource management plan with an associated environmental impact statement for the Bears Ears National Monument and by this notice announces the beginning of the scoping period to solicit public comments and identify issues, provide the planning criteria for public review, and issue a call for nominations for areas of critical environmental concern on lands managed by the BLM. The public comment period is open through October 31, 2022. [Read more.](#)

**Interior Department Well Plugging.** On August 25, the U.S. Department of the Interior “announced it has awarded an initial \$560 million from President Biden’s Bipartisan Infrastructure Law to 24 states to begin work to plug, cap and reclaim orphaned oil and gas wells.” According to the Interior Department, “eligible states have indicated that there are over 10,000 high-priority well sites across the country ready for immediate remediation efforts, with many more lined up for future action.” The bipartisan infrastructure bill enacted late last year included a \$4.7 billion investment to plug orphaned wells. To date, [the Interior Department announced](#) that Ohio, Michigan, Louisiana, Kentucky, Illinois, and Arizona have received those funds. [Read more.](#)

### **Monuments; Public Lands Protections – Colorado.**

On August 25, Colorado Democrats delivered a letter to President Biden calling on his administration to designate certain areas in Colorado as national monuments in order to protect them from oil and gas resource development. The plea comes after a bill sponsored by Sen. Michael Bennet (D-CO) failed to advance out of committee in the Senate. That bill,

[S. 173](#), known as the Colorado Outdoor Recreation and Economy (CORE) Act, would have protected areas within the state from drilling. The letter writers told the President, “We will continue our fight to pass the CORE Act to deliver permanent conservation for the areas featured in the legislation but ask for your help in the interim to offer administrative protections modeled after the bill.” [Read more.](#)

### **EPA Petition Seeking Ban on Natural Gas**

**Appliances.** On August 23, a number of environmental groups [submitted a petition to the U.S. Environmental Protection Agency \(EPA\)](#) to request the EPA issue rulemaking that would ban new natural gas-powered heating appliances in homes and commercial buildings. In their petition, the groups largely focused on health impacts and specifically ask for regulatory updates that would prohibit new heating systems that emit nitrogen oxides, “which have been linked to negative respiratory outcomes and are also a precursor to smog, which can worsen lung conditions like asthma.” The groups also seek to prevent any new oil-power heating, although natural gas is more widely used. The petition only applies to heating and does not seek to prevent the use of gas stoves. The EPA is not required to promulgate rulemaking based upon an outside petition and has not yet responded publicly to the groups’ request. The natural gas industry has argued against the petition. “This proposal would impose undue burdens on consumers at every step of the process, including our most vulnerable communities,” said the American Gas Association in a statement. [Read more.](#)

### **FEDERAL – Judicial**

**Offshore Lease Sales.** On August 30, the U.S. Court of Appeals for the D.C. Circuit ruled in [Gulf Restoration Network v. Haaland](#) (Case No. 20-5179) that “two Trump-era Interior Department oil leases in the Gulf of Mexico were unlawful.” In the ruling, the court “found the department in 2018 leased more than 150 million acres for oil exploration without properly analyzing the risk under the National Environmental Policy Act. The lease sales, 250 and 251, were among 11 proposed by the department in its 2017 five-year

plan.” The decision reverses a lower court opinion, in that the Interior Department “arbitrarily relied on inadequate environmental analyses of the sales’ effects and incorrect assumptions about the sufficiency of safety regulations, violating a bedrock environmental law.” This ruling sends “the lease sales back to the Interior Department for reconsideration of their environmental harms.” [Read more.](#)

### **Grand Staircase-Escalante National Monument; Bears Ears National Monument – Utah.**

On August 24, the state of Utah and two Utah counties filed a lawsuit against the Biden Administration alleging the president abused his authority and violated the law when he reestablished the boundaries of two Utah national monuments – the 1.8-million-acre Grand Staircase-Escalante National Monument and 1.35-million-acre Bears Ears National Monument – under the Monuments & Antiquities Act. According to the complaint in *Garfield County v. Biden* (Case No. 4:22-cv-00059-DN), the monuments, which are together twice the size of Delaware, are too large to be considered antiquities under the law. The expanded boundaries have been used in the past to limit natural resources development in these areas managed by the Bureau of Land Management. The Biden administration has yet to respond to the complaint. [Read more.](#)

### **BLM Leasing – Wyoming. (Update to 7/11/22 Report)**

On August 31, Wyoming Gov. Mark Gordon (R) announced that his state will be filing a motion to intervene in litigation regarding Bureau of Land Management oil and gas leasing in Wyoming. [Read more.](#) As previously reported, on June 29, two environmental groups attempted to stop the June onshore federal lease sales, particularly in Wyoming. In [The Wilderness Society v. Haaland](#) (Case No. 1:22-cv-01871), the plaintiffs “filed suit over the Biden administration’s decision to offer 123 parcels covering nearly 120,000 acres (approximately 188 square miles) of federal land for oil and gas drilling.” The [groups claimed](#) that “The Bureau of Land Management (BLM) is moving forward with the sale despite acknowledging that greenhouse gas pollution from development of the leases could result in billions

of dollars in social and environmental harm – the equivalent of adding hundreds of thousands of cars to the road each year. The lease sale will also commit these public lands to oil and gas drilling before BLM completes reforms to the federal oil and gas leasing program that the agency has recognized are needed.” Specifically, the complaint argued “that the Wyoming lease sale violates the National Environmental Policy Act (NEPA) and Administrative Procedure Act by locking in extensive oil and gas development rights without grappling with the enormous climate change costs of doing so, and without addressing protection of groundwater and wildlife.” The complaint, however, was unsuccessful in halting the lease sale.

[Read more.](#)

## STATE – Legislative

**Greenhouse Gas Emissions Disclosure and Reporting – California.** On August 31, SB 260, known as the Climate Corporate Accountability Act, died in the Assembly upon session adjournment. The bill passed the Senate in January. Sponsored by multiple Democrat senators, the bill would have required large private and public corporations to disclose and report their greenhouse gas emissions. As reported by Bloomberg Law, “The measure would have gone farther than the Securities and Exchange Commission’s proposed climate disclosure rule, which only applies to publicly traded companies and contains certain carve-outs for supply-chain emissions reporting. A full reporting from any large public or private corporation doing business in the state of all emissions would have been required, including supply-chain—known as Scope 3—emissions. The reports would be made to a third-party emissions registry. Trade groups led by the California Chamber of Commerce opposed the Climate Corporate Accountability Act, arguing that Scope 3 emissions are impossible to report accurately and completely.”

[Read more.](#)

**Carbon Sequestration and Capture – California.** On August 31, SB 905 passed the legislature and is to be transmitted to Gov. Gavin Newsom (D). According to the Senate bill analysis, “This bill establishes a

framework for capture, utilization, and storage of compressed carbon dioxide (CO<sub>2</sub>), a greenhouse gas (GHG). The bill complements existing policies to meet California’s long-term climate change goals.” The bill requires the state Air Resources Board “to adopt a unified permit application for CO<sub>2</sub> projects, including measures to minimize specified environmental and seismic impacts, as well as monitoring and reporting of seismic activity and air pollution.” [Read more.](#)

**Carbon Sequestration – California.** (*Update to 5/31/22 Report*) On August 31, SB 1101 died in the Assembly at session adjournment. The bill passed the Senate in May. Sponsored by Sen. Anna Caballero (D), this bill would have required “the state Air Resources Board, in consultation with the Geologic Carbon Sequestration Group, which the bill would establish in the California Geological Survey, to establish a Carbon Capture, Utilization, and Storage (CCUS) Program, as provided, for developing the commercial application of carbon capture, utilization, and storage technologies to reduce carbon dioxide emissions from new and existing facilities with a primary objective of deploying projects that will accelerate, to the maximum extent practicable, the development, deployment, and commercialization of advanced new technologies to capture and sequester carbon dioxide emissions from industrial and commercial facilities. The bill would require the state board, by an unspecified date, to submit a report to the Legislature and to the budget and relevant policy committees of the Legislature regarding CCUS projects approved under the program on or before an unspecified date.” [Read more.](#)

**Setbacks; Health Protection Zones – California.** On August 31, SB 1137 passed the legislature and is to be transmitted to Gov. Gavin Newsom (D). Sponsored by Sen. Monique Limón (D), the statewide setback bill prohibits the Geologic Energy Management Division from approving any notice of intention within a health protection zone, as defined, except for under specified circumstances. The bill also requires all oil or gas production facilities or wells with a wellhead within a health protection zone to comply with health, safety, and environmental requirements,

as provided, and comply with specified community communication and water sampling requirements. The bill defines “health protection zone” as the area within 3,200 feet of a sensitive receptor, which is defined “as a residence, education resource, community resource, health care facility, dormitory, or any building open to the public.” The California Independent Petroleum Association came out strongly against this bill – which was quickly pushed through in the last three days of the session at the insistence of Gov. Newsom – saying, “A 3,200-foot setback is an arbitrary number supported by zero data and zero science. It’s a number that extremists fed to Newsom for a purely political reason: to shut down the California oil industry. California already has setbacks. California’s local counties and cities have developed scientifically based setbacks throughout the state, working with interested parties and the oil industry to develop thoughtful setbacks. Yet Governor Newsom is pressing an 11th-hour one-size-fits-all statewide setback that would undo decades of thoughtful policymaking on the local level.” [Read more.](#)

**Orphaned and Abandoned Wells – California.** *(Update to 4/11/22 Report)* On August 31, SB 1295 passed the legislature and is to be transmitted to Gov. Gavin Newsom (D). Sponsored by Sen. Monique Limón (D), the bill relates to hazardous or deserted wells, and provides “that all work undertaken or paid for by the Geologic Energy Management Division (CalGEM) using outside contractors is a public work and requires prevailing wages to be paid, requires the California Workforce Development Board to develop and implement the Oil and Gas Well Capping Pilot initiative, and increases the amount that CalGEM can potentially expend in the next fiscal years to plug-and-abandon wells, among other things Assembly Amendments require the California Workforce Development Board to develop and implement the Oil and Gas Well Capping Pilot Initiative, revise the labor provisions, extend certain deadlines, remove the sunset on the CalGEM idle well report, and revise the calculation formula for the amount to be spent on plugging-and-abandoning wells annually, among other things.” [Read more.](#)

### **Enhanced Oil Recovery; Injection Wells – California.**

On August 30, SB 1314 passed the legislature and is to be transmitted to Gov. Gavin Newsom (D). Sponsored by Sen. Monique Limón (D), the bill prohibits an operator from injecting a concentrated carbon dioxide fluid produced by a carbon dioxide capture project or a carbon dioxide capture and sequestration project into a Class II injection well for purposes of enhanced oil recovery, including the facilitation of enhanced oil recovery from another well. [Read more.](#)

### **Budget Bill Climate Provisions – California.**

On August 31, AB 209 passed the legislature and is to be transmitted to Gov. Gavin Newsom (D). Sponsored by Asm. Phil Tang (D), the bill is the omnibus energy budget trailer bill and contains provisions necessary to implement the state’s 2022 Budget Act and includes various energy and climate change provisions. Specifically, the bill includes greenhouse gas emissions reduction incentives; offshore wind development provisions; provides funding for renewable energy projects and carbon capture pilots eligible for federal match funding; and prohibits operating fossil fuel resources in the Water Resources Strategic Reserve except during extreme events. [Read more.](#)

## **STATE – Regulatory**

**BLM Oil and Gas Leasing and Development Planning – California.** *(Update to 8/8/22 Report)* On August 29, members of the California congressional delegation – including House Republican Leader Kevin McCarthy – delivered a letter to Gov. Gavin Newsom (D), opposing the recent settlement between the State of California and the Bureau of Land Management (BLM) which “places a federal moratorium on new oil and gas leases in Central California until BLM conducts a supplemental environmental review on the impacts of oil and gas drilling.” The letter highlights “the detrimental economic impact of banning oil and gas production in the Central Valley” and asks that the settlement be rescinded and the state work “quickly with BLM to ensure production can begin soon.” [Read the letter](#)

[here](#). For background, on July 31, the BLM, state of California, and various environmental groups entered into a settlement agreement resolving litigation dating back to 2015. In [Center for Biological Diversity v. U.S. Bureau of Land Management](#) (Case No. 2:20-cv-00371-DSF), the litigants originally filed a complaint for declaratory and injunctive relief challenging the 2014 BLM Resource Management Plan (RMP) and 2012 BLM Final Environmental Impact Statement (EIS) for the Bakersfield Field Office, which identified approximately 400,000 acres of public lands and 1.2 million acres of federal mineral estate available for oil and gas leasing, alleging that the 2012 EIS failed to disclose and adequately analyze the environmental impacts of approving the 2014 RMP, including impacts from hydraulic fracturing in violation of the National Environmental Policy Act. The terms of the “settlement include a moratorium on new oil and gas leasing [in the area] while the BLM conducts a more thorough review. The agency specifically agreed to conduct a new supplemental environmental impact statement before holding any new lease sales. The California officials will also reserve the right to dispute or challenge the replacement statement.” The settlement effectuates a reversal of a Trump-era decision that would have opened central California to new oil and gas drilling on public lands and will prohibit the federal government from leasing any of the land for drilling until the new environmental review is completed. [Read more.](#)

**Kern County Approves Oil and Gas Permitting Revisions – California.** On August 23, the Kern County Board of Supervisors [unanimously approved a series of changes](#) “intended to revive the county’s embattled oil and gas permitting system. The board’s action on idle oilfield equipment on farmland, fine-particulate emissions and a fund for drinking water systems constituted county government’s response to a June court ruling that faulted aspects of Kern’s longstanding efforts to streamline local oil permitting. Staff’s plan now is to return to Kern County Superior Court on Sept. 28 to persuade Judge Gregory Pulskamp to declare its 7-year-old permitting system, which has been on hold since October, compliant with the California Environmental Quality Act.” The Board

vote came after a brief public hearing “at which industry backers said putting the permitting system back in place would support local jobs, economic activity and the county’s ability to provide local services.” [Read more.](#)

**Four Corners Air Quality Group Meeting – New Mexico.** On August 24, the New Mexico Environment Department Air Quality Bureau (AQB) announced that the Four Corners Air Quality Group will meet In-person in Farmington, N.M. on September 21 & 22, 2022 from 9 a.m. to 4 p.m. According to the AQB, the “focus of the meeting will be the air and climate challenges facing the region.” For in-person attendance, the location will be San Juan College’s School of Energy, Merrion Rooms A & B. 5301 College Blvd, Farmington, NM 87402. A virtual attendance option is also available. [Read more.](#)

**Fossil Fuel Banking Ban – Texas.** Following in the footsteps of West Virginia, as previously reported, Texas “is banning 10 large banks and 348 investment funds for allegedly boycotting fossil fuel-based energy companies critical to the state’s economy.” [The blacklist, released August 24, includes many “banks that Texas put on notice earlier this year](#) [that] went to great lengths to show that they are, in fact, investing tens of millions in the fossil fuel industry, but some failed to convince the state.” According to Texas Comptroller of Public Accounts, Glenn Hegar, “The environmental, social and corporate governance (ESG) movement has produced an opaque and perverse system in which some financial companies no longer make decisions in the best interest of their shareholders or their clients, but instead use their financial clout to push a social and political agenda shrouded in secrecy. Our review focused on the boycott of energy companies, rather than a review of the entire ESG movement. This research uncovered a systemic lack of transparency that should concern every American regardless of political persuasion, especially the use of doublespeak by some financial institutions as they engage in anti-oil and gas rhetoric publicly yet present a much different story behind closed doors.” [Read more.](#)

**Railroad Commission Rulemaking – Texas.** On August 31, the Texas Railroad Commission (RRC) announced it is accepting public comment on proposed amendments to 16 Texas Administrative Code (TAC) §3.65, relating to Critical Designation of Natural Gas Infrastructure. According to the RRC, “The proposed rule amendments simplify the rule language and process for designating certain natural gas facilities and entities critical during energy emergencies as specified in House Bill 3648 and Senate Bill 3 (87th Legislature, Regular Session). Specifically, “16 TAC §3.65(a) — Provide more certainty regarding the definition of ‘energy emergency;’ 16 TAC §3.65(b)(1) — Amend the list of critical gas suppliers; and 16 TAC §3.65(c), (e) and (f) — Revise requirements triggered by a critical gas supplier’s inclusion on the electricity supply chain map produced by the Texas Electricity Supply Chain Security and Mapping Committee.” To view the proposed rule amendments and submit comments online by 5 p.m. on Friday, October 7, 2022, [Read more here](#). The RRC also adopted two rules in their August 30 meeting: (1) New §3.66, Weather Emergency Preparedness Standards and (2) Adopted amendments in Chapter 5 regarding Carbon Dioxide implement provisions from [HB 1284](#) (2021) concerning the RRC’s sole jurisdiction over carbon sequestration wells. [Read more](#). Regarding the §3.66 rulemaking, the RRC said this is “the state’s first weatherization rule for natural gas facilities to protect gas flow to power generators and ensure Texans have electricity during weather emergencies. The new Weather Emergency Preparedness Standards rule (Statewide Rule 3.66) implements provisions in Senate Bill 3, which was passed by the Texas Legislature and signed by Governor Abbott in 2021 following the Winter Storm Uri.” Of the rulemaking, Todd Staples, President of the Texas Oil and Gas Association, said, “Natural gas was not the primary cause of problems. Any over-emphasis on weatherization of natural gas facilities is concerning because, regardless of the level of weatherization, during extreme weather we can expect these largely unmanned upstream production sites to lose 10% to 30% of daily production. These are field operations and not factory settings. Stopping production is a necessary option for environmental

and safety reasons, and flexibility must be allowed in rulemaking for operators to maintain safety.” [Read more](#). Regarding the amendments to 16 TAC §5.101, §5.102 and §§5.201 – 5.207, according to the RRC, “those implement changes giving RRC sole jurisdiction over carbon sequestration wells (jurisdiction previously shared with the Texas Commission on Environmental Quality) and reflect additional federal requirements to allow the RRC to apply for enforcement primacy for the federal Class VI Underground Injection Control (UIC) program.” [Read more](#).

## **STATE – Judicial**

### **Disposal Wells; Insurance Liability – Oklahoma.**

On June 14, in *Crown Energy Co. v. Mid-Continent Casualty Co.* (Case No. 116989), the Oklahoma Supreme Court ruled in favor of an operator regarding claims arising out of seismic activity allegedly caused by Crown’s use of wastewater disposal wells in its oil and gas operations. In the case, Crown sued their insurer seeking declaratory judgment that two commercial general liability policies issued to Crown provided coverage for claims of property damage brought against Crown in a separate action. The insurer alleged there was no coverage under the policies because the seismic activity did not constitute an “occurrence” and that the claims fell within a pollution exclusion to the policies. The trial court granted summary judgment in favor of Crown. On appeal, the court also ruled in favor of Crown. Also ruling in Crown’s favor, the Oklahoma Supreme Court found that the seismic activity did constitute an occurrence under the policies, and that the pollution exclusion did not bar coverage. [Read more](#).

## **INDUSTRY NEWS FLASH**

► **Former Vice President Pence decries attack on fossil fuels at Petroleum Association of Wyoming conference.** “Former Vice President Mike Pence and both of Wyoming’s U.S. Senators decried Democrats’ energy policies and the actions of federal regulators” during the Petroleum Association of Wyoming annual Rockies Petroleum Conference. “Pence warned of a

left-wing ‘war on energy’ intended to eradicate fossil fuels — which, he argued, ‘belong to the American people,’ not the U.S. government.” [Read more.](#)

### ► **Strategic Petroleum Reserve hits historic lows.**

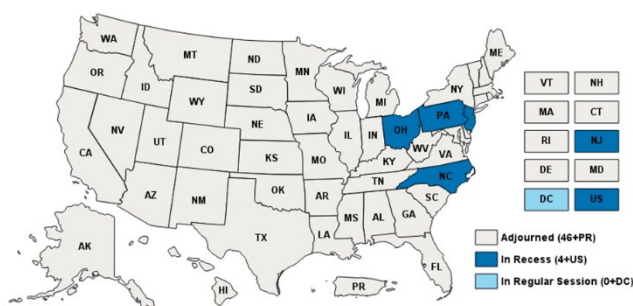
As reported on August 24 by the Independent Petroleum Association of America, the “U.S. Strategic Petroleum Reserve (SPR) hit historic lows this week as President Joe Biden continues to order a record release of barrels from the emergency stockpile. The SPR now sits at around 453 million barrels – the lowest level in 37 years. For perspective, the U.S. Energy Information Administration estimates that in 2021, the United States consumed an average of about 19.78 million barrels of petroleum per day. If oil and gas production were to halt completely, today’s SPR would have just enough supply to fuel the United States for 22 days.” This has raised concerns with hurricane season approaching and with it the potential for further drawdowns in the case of emergency. [Read more.](#)

### ► **Colorado Oil & Gas Association educates on energy issues at 34th Annual Energy Summit.**

On August 22-24, the Colorado Oil & Gas Association held its 34th Annual Energy Summit in which speakers and attendees addressed energy policy issues and how to communicate those policies to the public. “The oil and gas industry needs to find a way to rise above the political divide and find a common ground,” said attendee Paula Beasley, communications advisor for Chevron. [Read more.](#)

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes:** The **U.S. Congress** is in summer recess through September 6.

The following are in recess until the dates provided: **Michigan** (September 7), the **Pennsylvania House** (September 12), the **Ohio House** (September 14), the **Pennsylvania Senate** (September 19) and the **Ohio Senate** (September 21).

**North Carolina** was scheduled to adjourn on July 1, however, the [adjournment resolution](#) calls for the regular session to reconvene for mini sessions over the coming months. The most recent session occurred on August 23. The next session is scheduled for September 20.

**California** adjourned its legislative session on August 31.

**Missouri** Republican Gov. Mike Parson’s scheduled special session has been delayed to coincide with the state’s veto session beginning on September 14. According to a [press release](#), the session will deal with income tax cuts and extending agriculture tax credit programs.

**Idaho** lawmakers concluded their special session on September 1 after passing the largest [tax cut](#) in state history and ensuring another \$410 million in further education funding, reports the [Boise State Public Radio](#). [Read more about the tax cuts here.](#)

**Signing Deadlines** (by date): **California** Democratic Gov. Gavin Newsom has until September 30 to sign or veto legislation or it becomes law without signature. **Alaska** Republican Gov. Mike Dunleavy has 20 days from presentment, Sundays excluded, to act on legislation or it becomes law without signature. **New York** Democratic Gov. Kathy Hochul has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **North Carolina** Democratic Gov. Roy Cooper has 10 days from presentment to act on legislation or it becomes law without signature.

The following states are currently holding 2022 interim committee hearings: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [Colorado](#), [Connecticut](#), [Delaware](#), [Hawaii](#),



[Georgia](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Massachusetts](#), [Missouri House](#) and [Senate](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [North Dakota](#), [Ohio](#), [Oregon](#), [Rhode Island](#), [South Carolina House](#) and [Senate](#), [South Dakota](#), [Tennessee](#), [Texas House](#) and [Senate](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#), [Wisconsin](#) and [Wyoming](#).

The following states are currently posting 2023 bill drafts, pre-files and interim studies: [Florida](#), [Kentucky](#), [Montana](#), [Nevada](#), [North Dakota](#), [Utah](#), [Virginia](#) and [Wyoming](#) ■

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# GOVERNMENTAL AFFAIRS REPORT

## Highlights At-A-Glance

### FEDERAL – Legislative

**H.R. 8802 - Public Lands and Waters Climate Leadership Act of 2022.** On September 13, Rep. Raul Grijalva (D-NM) introduced [H.R. 8802](#), known as the Public Lands and Waters Climate Leadership Act of 2022. The bill would prohibit new federal fossil fuel leasing and permitting until the U.S. Department of the Interior (DOI) and the U.S. Forest Service (USFS) “demonstrate that lifecycle emissions from additional oil, gas, and coal development are consistent with the Biden administration’s 2030, 2035, and 2050 climate change targets. The bill also requires DOI and USFS to develop, publish, implement, and regularly update a comprehensive strategy to guide the agencies’ efforts to reduce GHG emissions and to keep the public informed of the progress.” [Read more.](#)

**S. 4815 - Simplify Timelines and Assure Regulatory Transparency Act.** As Congressional onlookers eagerly await the Democrats’ release of official bill text for their side deal on permitting – made as part of an agreement with Sen. Joe Manchin (D-WV) to garner his support for the recently enacted Inflation Reduction Act – West Virginia Republican Senator Shelley Moore Capito has introduced her own version of the permitting bill, although it is unlikely that this version will be the legislation adopted. [S. 4815](#), known as the Simplify Timelines and Assure Regulatory Transparency Act or START Act, was introduced on September 12 and offers “strong permitting reforms to burdensome regulations currently delaying key energy and infrastructure projects across the country.” According to Sen. Capito, “The START Act would provide regulatory certainty to states, expedite permitting and review processes, codify substantive environmental regulatory reforms, and expedite permitting of the critically important Mountain Valley Pipeline. Republicans are unified in

working to deliver needed permitting reform, and this legislation is a blueprint for how we can help communities benefit from being able to finally get critical projects across the finish line.” [Read more.](#)

**House Committee on Oversight and Reform Hearing - Fueling the Climate Crisis: Examining Big Oil’s Prices, Profits, and Pledges.** On September 15, the House Committee on Oversight and Reform held a hearing titled, “Fueling the Climate Crisis: Examining Big Oil’s Prices, Profits, and Pledges.” The Democrats’ hearing purpose was to “examine Exxon, Chevron, BP, and Shell’s record-breaking profits, discuss the adequacy of their climate pledges, and hear firsthand accounts from survivors of climate change-induced severe weather events.” According to the Committee, “Despite reaping record profits, these companies have not taken the steps that scientists say are needed to prevent the worst climate impacts. Instead, they continue their greenwashing campaign by publicly supporting the Paris Agreement and claiming to be working towards a net-zero future, while issuing incomplete and misleading climate pledges and making inadequate investments in unproven energy sources and technologies.” To access the committee hearing documents and video recording of the hearing, [Read more.](#)

**House Natural Resources Subcommittee Hearing on the Role of Public Relations Firms in Preventing Action on Climate Change.** On September 14, the House Natural Resources Subcommittee on Oversight and Investigations held a hearing titled, “The Role of Public Relations Firms in Preventing Action on Climate Change.” The hearing coincides with the release of a Democrat congressional report presenting “select findings and 98 pages of evidentiary documents from the Committee’s investigation into public relations (PR)

firms' work with fossil fuel companies." [Read the report here](#). According to the subcommittee, "For decades, the oil and gas industry denied or downplayed climate change and fossil fuels' role in causing it. As outright climate change denial has become less accepted by the public, the industry has funneled millions of dollars into PR firms to execute subtler and more sophisticated campaigns." To access the committee hearing documents and video recording of the hearing, [Read more](#).

## **FEDERAL – Regulatory**

**BLM Resource Advisory Council – New Mexico.** On September 7, the Bureau of Land Management (BLM) announced a *Notice of Public Meeting, Northern New Mexico Resource Advisory Council, New Mexico* (87 Fed. Reg. 54712) to be held on December 1-2, 2022. The Northern New Mexico Resource Advisory Council (RAC) will be holding a field tour and meeting during those days on a variety of planning and management issues associated with public land management in its area of jurisdiction. Northern New Mexico RAC field tours and meetings are open to the public. [Read more](#).

**BLM Resource Advisory Council – Utah.** On September 8, the BLM announced a *Notice of Public Meetings, Utah Resource Advisory Council, Utah* (87 Fed. Reg. 55035) to be held on multiple dates beginning in October and will include a field tour. The Utah Resource Advisory Council (RAC) provides recommendations to the Secretary of the Interior, through the BLM, on a variety of public lands issues. Utah RAC meetings and tours are open to the public. [Read more](#).

**BLM Information Collection.** On September 9, the BLM published a Notice of Information Collection regarding the crossing of private lands for access to BLM lands. According to the notice, "This form will gather information from the public that is required by private landowners in order to cross private lands in order to access BLM lands. The information is necessary to help ensure the accountability of those seeking to cross private lands in order to access BLM

public lands." The public comment period is open through November 8, 2022. [Read more](#).

**Carbon Sequestration – Wyoming.** As reported in the *Oil & Gas Journal*, "ExxonMobil Corp. has received U.S. Bureau of Land Management (BLM) approval to sequester carbon dioxide (CO<sub>2</sub>) under federal land in Lincoln and Sweetwater counties, Wyoming." [Read more](#). Notably, "The project with ExxonMobil is the first time BLM has issued a permit to allow for permanent underground storage of CO<sub>2</sub>." According to the Independent Petroleum Association of America, by betting on Carbon Capture and Storage (CCS), "Wyoming is finding the middle ground between continuing to provide affordable and reliable energy and developing available resources in the most sustainable way, while also advancing climate solutions. Even more, by spearheading CCS storage in the United States Wyoming proves that CCS is a reliable technology for states that are heavily intertwined with the fossil fuel industry. CCS provides a technological solution that is focused on delivering innovation, while creating low-carbon growth opportunities that are essential to climate change mitigation." [Read more](#).

**Interior Department Approves Offshore Lease Sale.** On September 14, the U.S. Department of the Interior approved nearly \$190 million in bids from an offshore oil and gas lease sale held nearly a year ago in the Gulf of Mexico but had previously been rejected by a federal judge in February 2022. In that case, the court said the Biden administration had failed to adequately consider the lease sale's effect on greenhouse gas emissions. Approval of the lease sale – a concession given to West Virginia Democrat Senator Joe Manchin for his necessary support for the recently enacted Inflation Reduction Act – makes that case moot and accepts as valid the 307 high bids. "The action met a 30-day deadline set in the climate bill signed Aug. 16. That law also requires the bureau to reschedule three sales that had been put on hold by a moratorium ordered by President Joe Biden, with the first to be held by Dec. 31." [Read more](#).

## FEDERAL – Judicial

**BLM Leasing – Montana; North Dakota; South Dakota.** On September 6, the Biden administration entered into a settlement agreement with environmental litigants who in 2021 challenged the Trump administration’s Bureau of Land Management (BLM) federal leasing plans for an alleged failure to address the impacts of oil and gas extraction to the climate and groundwater and violating the National Environmental Policy Act (NEPA). The lawsuit relates to five BLM decisions between July 2019 and September 2020 that authorized the sale of 113 oil and gas leases encompassing 58,617 acres of public land in the states of Montana, North Dakota, and South Dakota. In [WildEarth Guardians v. U.S. Bureau of Land Management](#) (Case No. 4:21-cv-00004-BMM-JTJ), the U.S. District Court for the District of Montana approved the settlement which requires the BLM to conduct further environmental analysis of the lands at issue and “incorporate consideration of the social cost of greenhouse gases.” The BLM will then publish the environmental analysis for public review and comment – although the court did not impose a specific date for completion. Additionally, the agreement provides that the BLM “will not approve any new Applications for Permits to Drill (‘APDs’) on the challenged leases. Further, BLM agrees that pending completion of its additional NEPA analysis, and until a new decision is rendered [...] it will not approve new right-of-way grants for lands subject to the challenged leases that appear, based on a reasonable inspection, to be sought for the purpose of developing one or more of the challenged oil and gas leases.” We will continue keeping AAPL members informed once the BLM releases their NEPA review for public comment. [Read more.](#)

**BLM Leasing – Wyoming.** On September 2, the U.S. District Court for the District of Wyoming affirmed in the consolidated case, [Western Energy Alliance v. Biden](#) (Case No. 2:21-cv-00013-SWS), “the Biden administration’s authority to not hold oil and gas lease sales in early 2021. The judge further found that industry groups lacked standing to challenge those lease sale postponements. The Wyoming court

rejected across the board the arguments by industry and Wyoming, and found that BLM acted well within its legal authority in postponing lease sales in order to ensure that it fully considered the environmental harms they could cause. The court recognized that authority and properly upheld the postponements.” The Western Energy Alliance said they plan to appeal the court decision upholding the Biden administration’s oil and gas leasing delays. This latest court decision is in contravention to an August 18 ruling on the same issues previously reported in [Louisiana v. Biden](#) (Case No. 21-30505), albeit in different states, delivered by the U.S. District Court for the Western District of Louisiana. [Read more.](#) Those states in question were Alabama, Alaska, Arkansas, Georgia, Louisiana, Mississippi, Missouri, Montana, Nebraska, Oklahoma, Texas, Utah, and West Virginia. The split opinions between federal district courts may result in broader appellate review. [Read more.](#)

## STATE – Legislative

**Budget Bill Climate Provisions – California.** (*Update to 9/6/22 Report*) On September 6, Gov. Gavin Newsom (D) signed AB 209 into law. Sponsored by Asm. Phil Tang (D), the measure is the omnibus energy budget bill and contains a multitude of provisions necessary to implement the state’s 2022 Budget Act and includes various energy and climate change provisions. [Read more.](#) Specifically, the bill includes greenhouse gas emissions reduction incentives; offshore wind development provisions; provides funding for renewable energy projects and carbon capture pilots eligible for federal match funding; and prohibits operating fossil fuel resources in the Water Resources Strategic Reserve except during extreme events. The bill takes immediate effect. [Read more.](#)

**Setbacks; Health Protection Zones – California.** (*Update to 9/6/22 Report*) On September 16, Gov. Gavin Newsom (D) signed SB 1137 into law. Sponsored by Sen. Monique Limón (D), the statewide setback bill prohibits the Geologic Energy Management Division from approving any notice of intention within a health protection zone, as defined,

except for under specified circumstances. [Read more.](#) The bill also requires all oil or gas production facilities or wells with a wellhead within a health protection zone to comply with health, safety, and environmental requirements, as provided, and comply with specified community communication and water sampling requirements. The bill defines “health protection zone” as the area within 3,200 feet of a sensitive receptor, which is defined “as a residence, education resource, community resource, health care facility, dormitory, or any building open to the public.” The California Independent Petroleum Association came out strongly against this bill – which was quickly pushed through in the last three days of the session at the insistence of Gov. Newsom – saying, “A 3,200-foot setback is an arbitrary number supported by zero data and zero science. It’s a number that extremists fed to Newsom for a purely political reason: to shut down the California oil industry. California already has setbacks. California’s local counties and cities have developed scientifically based setbacks throughout the state, working with interested parties and the oil industry to develop thoughtful setbacks. Yet Governor Newsom is pressing an 11th-hour one-size-fits-all statewide setback that would undo decades of thoughtful policymaking on the local level.” [Read more.](#)

**California Climate Crisis Act – California.** (*Update to 9/6/22 Report*) On September 16, Gov. Gavin Newsom (D) signed AB 1279 into law. [Read more.](#) Sponsored by Asm. Al Muratsuchi (D), the bill, known as the California Climate Crisis Act, “would declare the policy of the state both to achieve net zero greenhouse gas emissions as soon as possible, but no later than 2045, and achieve and maintain net negative greenhouse gas emissions thereafter, and to ensure that by 2045, statewide anthropogenic greenhouse gas emissions are reduced to at least 85% below the 1990 levels. The bill would require the state board to work with relevant state agencies to ensure that updates to the scoping plan identify and recommend measures to achieve these policy goals and to identify and implement a variety of policies and strategies that enable carbon dioxide removal solutions and carbon capture, utilization, and storage technologies in California, as specified. The

bill would require the state board to submit an annual report, as specified.” [Read more.](#)

**Carbon Capture – California.** On September 16, Gov. Gavin Newsom (D) signed SB 905 into law. [Read more.](#) Sponsored by Sen. Anna Caballero (D), the bill “establishes a framework for capture, utilization, and storage of compressed carbon dioxide (CO<sub>2</sub>), a greenhouse gas (GHG). The bill complements existing policies to meet California’s long-term climate change goals.” [Read more.](#)

**Greenhouse Gas Emissions – California.** On September 16, Gov. Gavin Newsom (D) signed AB 1757 into law. [Read more.](#) Sponsored by Asm. Cristina Garcia (D), the bill “requires the Natural Resources Agency in collaboration with specified entities to determine on or before January 1, 2024, an ambitious range of targets for natural carbon sequestration, and for nature-based climate solutions, that reduce greenhouse gas emissions for 2030, 2038, and 2045, to support state goals to achieve carbon neutrality and foster climate adaptation and resilience.” [Read more.](#)

**Enhanced Oil Recovery; Injection Wells – California.** On September 16, Gov. Gavin Newsom (D) signed SB 1314 into law. [Read more.](#) Sponsored by Sen. Monique Limón (D), the bill prohibits an operator from injecting a concentrated carbon dioxide fluid produced by a carbon dioxide capture project or a carbon dioxide capture and sequestration project into a Class II injection well for purposes of enhanced oil recovery, including the facilitation of enhanced oil recovery from another well. [Read more.](#)

**Marketable Title; Recordation – Michigan.** On September 8, HB 6370 was introduced by Rep. Roger Hauck (R). The bill would define a marketable record title to an interest in land; require the filing of notices of claim of interest in such land in certain cases within a definite period of time and to require the recording thereof; make invalid and of no force or effect all claims with respect to the land affected thereby where no such notices of claim of interest are filed within the required period; provide for certain penalties for filing

slanderous notices of claim of interest, and provide certain exceptions. [Read more.](#)

**County Natural Gas Bans – Pennsylvania.** On September 13, Sen. Gene Yaw (R) introduced SB 1331. The bill would “prohibit counties that ban natural gas development under county-owned land from receiving their county share of Impact Fee drilling funds or being eligible applicants for Marcellus Legacy Fund grants administered by the Commonwealth Financing Authority. Municipalities within a county that bans natural gas development under county-owned land will still receive their municipal distributions of the Impact Fee.” [Read more.](#)

## [STATE – Regulatory](#)

**Los Angeles Oil and Gas Drilling Ordinance – California.** On September 15, the Los Angeles City Planning Commission announced it “has taken significant steps this week to advance the Oil Ordinance, releasing an [updated version](#) of the draft proposed Oil Ordinance [CF17-0447], a [Mitigated Negative Declaration](#) (please see Environmental Case Number ENV-2022-4865-MND) which analyzes potential impacts on the environment, and a [staff recommendation report](#) to the City Planning Commission. The [recommended ordinance](#), dated September 2022, includes revisions made since the release of the August 2022 draft ordinance. These revisions clarify or correct language originally presented in the prior draft and reflect comments received from the public. The revised ordinance retains conditions listed in Los Angeles Municipal Code Sections 13.01 E and F, which apply to existing oil operations. It also incorporates language to allow actions that prevent or respond to threats to public health, safety, or the environment.” [Read more.](#) For background, “Pursuant to a Mayoral and City Council directive, Los Angeles City Planning drafted a proposed citywide ordinance that would prohibit new oil and gas extraction and make existing extraction activities a nonconforming use in all zones. Upon Council adoption and Mayoral signature, the ordinance would immediately ban new oil and gas drilling and put an end to existing operations after a 20-year

amortization period.” [Read more.](#) The Mitigated Negative Declaration for the Oil Ordinance is available for public review and comment and can be accessed on the NMED [website](#) (please see Environmental Case Number ENV-2022-4865-MND). The 30-day comment period will end on October 17, 2022. You may submit written comments (and include Environmental Case No. ENV-2022-4865-MND) via email or mail by 5 p.m. on October 17, 2022 to the following addresses: Jennifer Torres, City of Los Angeles Department of City Planning, 200 North Spring Street, Room 701, Los Angeles, CA 90012 or at [planning.oildrilling@lacity.org](mailto:planning.oildrilling@lacity.org). Beyond the Mitigated Negative Declaration comment period, general public comments are also welcome continually until the Oil Ordinance is adopted by City Council. The City Planning Commission (CPC) will consider the proposed Oil Ordinance at a public meeting on September 22, 2022. The agenda for this meeting is available at [planning4la.org/hearings](http://planning4la.org/hearings), and includes instructions on submitting comments directly to the CPC. This public hearing will be conducted entirely on Zoom and will allow for remote public comment.

**CalGEM Releases Draft Orphan Well Plan – California.** On September 15, the California Geologic Energy Management Division (CalGEM) unveiled a draft plan for prioritizing inspections and repairs at oil wells suspected of leaking methane, starting in Kern County. The CalGEM draft plan will decide “which wells get attention first according to the risks they present to nearby residents, the mechanical integrity of the wells themselves, potential hazards, proximity to disadvantaged communities and possible impacts on sources of drinking water. The systematic approach proposed Thursday is expected to guide which, of an estimated 5,300 idle wells statewide suspected of having no existing operator, would be first in line for plugging and abandonment work funded by \$100 million in state money and up to \$165 million from the federal government.” [Read more.](#) A copy of the [draft proposal is available online here](#). The public comment period is open until October 7, 2022. A public comment workshop is also scheduled to start at 5:30 p.m. on October 6, 2022. [Read more.](#) To submit comments to CalGEM by email, send those directly

to: [CalGEMOrphanWells@conservation.ca.gov](mailto:CalGEMOrphanWells@conservation.ca.gov). For any questions regarding the above you may contact CalGEM directly at 916-445-9686.

### **CalGEM Methane Emissions Regulation –**

**California.** On August 31, the law firm Manatt, Phelps & Phillips, LLP delivered a letter of “Objection to CalGEM’s Issuance of Notices of Violation Related to Methane Leaks and Other Emissions Matters” in their representation of the California Independent Petroleum Association (CIPA). The letter notes that CIPA strongly objects to “the unauthorized imposition of new regulatory requirements” by the Geologic Energy Management Division of California’s Department of Conservation (CalGEM). As noted, after “months of sending threatening letters to operators, CalGEM began issuing notices of violation for possible methane leaks in July and August.” The letter asserts that “CalGEM’s actions capriciously ignore and purport to supersede the regulatory authority of CARB and local air districts. To be clear, CalGEM has no jurisdiction – at all – to enforce air emissions.” The letter asks “that CalGEM rescind all outstanding notices of violation issued for methane leaks and cease issuance of same and return CalGEM attention to meeting its current legislative and regulatory obligations.” [Read more.](#)

**Dakota Access Pipeline – Illinois.** On September 15, the Illinois Commerce Commission (ICC) “approved a proposed expansion of the Dakota Access Pipeline that pushes its capacity past 1 million barrels per day, rejecting environmental groups’ objections that the expansion doesn’t materially benefit the public,” according to Bloomberg Government reporting. The unanimous ICC decision “in favor of Dakota Access LLC and Energy Transfer Crude Oil Company LLC reversed a successful appeal of a 2020 commission decision by pipeline opponents, whose concerns include worry about a pipeline spill contaminating water supplies.” [Read more.](#)

**Ozone Precursor Rule – New Mexico.** (*Update to 8/22/22 Report*) On September 15, the New Mexico Environment Department (NMED) announced that the first resources for compliance with the new Ozone

Precursor Rule are available on the NMED website. The resource links on this page include: the presentation slides and recording from the industry meeting held in Farmington on September 1, 2022; the final rule as published in the New Mexico Register August 5, 2022; an initial compliance guidelines document; a compliance timelines document (chronological); and a frequently asked questions document, which will be updated periodically. [Read more.](#) According to the NMED, their “goal is to provide industry with helpful information to assist in compliance with the new rule. Additional compliance guidelines, focused on specific sections of the rule, will be forthcoming. Additionally, application forms and a pre-approved technologies list will appear” once available. For more information about the NMED regulatory programs, [Read more.](#)

**Well Plugging – Ohio.** The state will begin plugging abandoned oil and gas wells using \$25 million in federal funds approved in the bipartisan infrastructure bill enacted last year. The Ohio Department of Natural Resources (ODNR) reports it will utilize this funding to plug between 170 and 320 orphaned wells, many of which are located in the Appalachian region. [Read more about the ODNR Division of Oil & Gas Resources Orphan Well program](#) on their website which also includes details on their plan. [Read more.](#)

**New President Selected to Head the State Oil and Gas Association – West Virginia.** Maribeth Anderson – current Director of Government Relations for Antero Resources – was recently elected as the first female president of the 14-member Board of Directors for the Gas and Oil Association of West Virginia. [Read more.](#)

### **INDUSTRY NEWS FLASH**

► **Texas oil and gas producers pay record taxes to the state.** Texas Comptroller Glenn Hegar has announced that state revenues from the oil production tax generated \$6.36 billion up 84% from FY 2021, while the natural gas production tax generated \$4.47

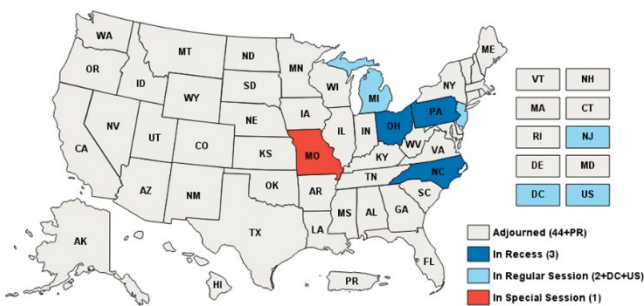
billion up 185% from last year. Following the report, Railroad Commission Chairman Wayne Christian said, “The oil and gas industry paid around \$11 billion in production taxes alone last year – not including its strong sales tax contributions – directly benefiting Texans and our livelihoods.” [Read more.](#)

► **New British Prime Minister lifts hydraulic fracturing moratorium in UK.** New British Prime Minister Liz Truss announced during her opening speech to the House of Commons on September 8 that she will lift the country’s moratorium on hydraulic fracturing in addition to pursuing other measures to accelerate development of domestic energy supplies. “Far from being dependent on the global energy market and the actions of malign actors, we will make sure that the UK is a net energy exporter by 2040.” The move ends the hydraulic fracturing ban in place since 2019. [Read more.](#)

► **OPEC+ agrees to small production cut.** On September 5, OPEC+ nations agreed to a small oil production cut of 100,000 barrels per day for the coming month. As reported by CNBC, the move was a surprise to energy markets and analysts who “had broadly expected the group to stay the course with its production policy.” This is seen as a setback for the Biden administration which had called on the group to increase production. [Read more.](#)

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes:** Michigan is in regular session. The U.S. Congress is also in session.

The following are in recess until the dates provided: **Pennsylvania** (September 19) and **Ohio** (November 16).

**North Carolina** was scheduled to adjourn on July 1, however, the [adjournment resolution](#) calls for the regular session to reconvene for mini sessions over the coming months. The most recent session occurred on August 23. The next session is scheduled for September 20.

**Missouri** lawmakers reconvened for a combined special and veto session on September 14. According to a [press release](#), the session will deal with income tax cuts and extending agriculture tax credit programs and may last through September 22.

**West Virginia** Republican Gov. Jim Justice convened the legislature for a short special session on September 12, the state’s fourth special session this year, reports [The Inter-Mountain](#). The legislature approved a “Certified Industrial Business Expansion Development Program” within the Department of Economic Development and appropriated \$150 million to the Division of Highways for road maintenance.

**Signing Deadlines** (by date): **California** Democratic Gov. Gavin Newsom has until September 30 to sign or veto legislation or it becomes law without signature. **New York** Democratic Gov. Kathy Hochul has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **North Carolina** Democratic Gov. Roy Cooper has 10 days from presentment to act on legislation or it becomes law without signature.

The following states are currently holding 2022 interim committee hearings: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [Colorado](#), [Connecticut](#), [Delaware](#), [Hawaii](#), [Georgia](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Massachusetts](#), [Missouri House](#) and [Senate](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [North Dakota](#), [Ohio](#), [Oregon](#), [Rhode Island](#), [South Carolina House](#) and [Senate](#), [South Dakota](#), [Tennessee](#), [Texas House](#) and



[Senate](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#), [Wisconsin](#) and [Wyoming](#).

The following states are currently posting 2023 bill drafts, pre-files and interim studies: [Florida](#), [Kentucky](#), [Montana](#), [Nevada](#), [North Dakota](#), [Utah](#), [Virginia](#) and [Wyoming](#). ■

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