

GOVERNMENTAL AFFAIRS REPORT

FEDERAL – Legislative

Congress to Reconvene for 2024 Legislative Session. Following the Dec. 2023 holiday recess, the U.S. Congress will reconvene for the 2024 regular session beginning this week. [Read more.](#)

FEDERAL – Regulatory

BLM Oil and Gas Lease Sale – Montana; North Dakota. On Dec. 28, 2023, the Bureau of Land Management (BLM) Montana-Dakotas State Office “opened a 30-day public scoping period to receive public input on 26 oil and gas parcels totaling 5,053 acres that may be included in a July 2024 lease sale in Montana and North Dakota. The comment period ends Jan. 29, 2024.” [Read more.](#)

BLM Lease Parcels Supplemental Analysis – New Mexico. On Dec. 20, 2023, the BLM New Mexico State Office “opened a 30-day public comment period to receive public input on supplemental analysis regarding lease parcels initially included in the February 2020 Rio Puerco Field Office (RPFO) and Farmington Field Office (FFO) Oil and Gas Lease Sales.” The supplemental analysis arose from numerous environmentalist legal challenges. The public comment period is open through Jan. 19, 2024. [Read more.](#)

BLM Oil and Gas Lease Sale – Wyoming. On Dec. 13, 2023, the BLM Wyoming State Office “announced an oil and gas lease sale scheduled for March 5, 2024, to offer 30 oil and gas parcels totaling 13,417 acres in Wyoming. The BLM completed scoping on these parcels in July 2023 and a public comment period in October 2023 on the parcels, potential deferrals, and the related environmental analysis. A 30-day public protest period to receive additional public input opened today and will close January 12, 2024.” [Read more.](#)

BLM Draft Environmental Impact Statement – Alaska. On Dec. 14, 2023, the BLM announced it “is seeking public comment on a draft environment[al] impact statement analyzing proposals developed by the previous administration to revoke long-standing protections on 28 million acres of public lands in Alaska. When finalized, this analysis will inform a decision by the Secretary of the Interior regarding whether to continue, alter, or end the protections.” [Read more.](#) As provided by the BLM, “The lands are often referred to as 17(d)1 lands, referencing [a section of the Alaska Native Claims Settlement Act \(ANCSA\)](#), and are protected [...] from mining claims and oil and gas development through a mineral withdrawal. The draft analysis considers whether opening the lands to development remains consistent with some of the purposes of ANCSA, which requires that ‘the public interest in these lands is properly protected,’ including factors such as subsistence hunting and fishing, habitat connectivity, protection of cultural resources, and protection of threatened and endangered species.” The public comment period is open through Feb. 14, 2024. [Read more.](#)

BLM Resource Management Plan Environmental Impact Statement – Colorado. On Jan. 4, the BLM announced it is “seeking public comment to inform the development of an environmental impact statement analyzing potential amendments to the April 2020 Uncompahgre Field Office Resource Management Plan. The plan covers about 678,400 acres of public lands and 973,300 acres of subsurface mineral estate in Delta, Gunnison, Mesa, Montrose, Ouray, and San Miguel counties.” [Read more.](#) On Jan. 5, the BLM formally published its *Notice of Intent To Amend the Resource Management Plan for the Uncompahgre Field Office and Prepare an Associated Environmental Impact Statement, Colorado* ([89 Fed. Reg. 807](#)). According to the BLM, “This analysis is limited to considering

alternative management approaches for oil and gas resources, lands with wilderness characteristics, and previously analyzed Areas of Critical Environmental Concern, consistent with two litigation settlement agreements. BLM will consider an alternative that corresponds with management actions previously analyzed in the 2019 Uncompahgre Field Office Proposed Resource Management Plan and associated final environmental impact statement and will strive for consistency with other BLM planning efforts for Gunnison sage-grouse and Colorado big game species.” The public comment period is open through Feb. 20, 2024. [Read more.](#)

Interior Department Finalizes 5-Year Offshore Oil and Gas Leasing Program. On Dec. 15, 2023, the Department of the Interior “published the final 2024–2029 National Outer Continental Shelf Oil and Gas Leasing Program (Program) with the fewest oil and gas lease sales in history.” [Read more.](#) According to the announcement, “The Program schedules three oil and gas lease sales in the Gulf of Mexico Program Area in 2025, 2027 and 2029. These three lease sales are the minimum number that will enable the Interior Department’s offshore wind energy program to continue issuing leases in a way that will ensure continued progress towards the Administration’s goal of 30 gigawatts of offshore wind by 2030. The reduction of the next National OCS Program to three lease sales meets the IRA’s requirements for future offshore renewable energy leasing. The areas considered for leasing and number of lease sales in the 2024-2029 Final Program have been significantly narrowed from the previous Administration’s original proposal of 47 lease sales off all coastal areas in the United States.” [Access the Interior Department Final Program and Final Programmatic Environmental Impact Statement here.](#) As reported by S&P Global Commodity Insights, “Despite heavy pushback from the oil and gas industry, the final 2024-2029 National Outer Continental Shelf Oil and Gas Leasing Program maintains a Sept. 29 proposal that called for a total of three auctions to be held in 2025, 2027 and 2029, all for acres in the Gulf of Mexico. No auctions are contemplated off the coast of Alaska.” [Read more.](#) “The Department of the Interior (DOI) said the reduction is needed to meet offshore wind area

sales required by the Inflation Reduction Act (IRA). An IRA provision prioritizing fossil fuels requires that total acres offered in offshore oil and gas lease sales in the year till the issuance of any lease for offshore wind development must reach 60 million acres.” The DOI’s “final program still needs to be reviewed by Congress within 60 days.” We will continue to keep AAPL members updated. [Read more.](#)

Clean Hydrogen Energy Tax Credits. On Dec. 26, 2023, the Internal Revenue Service released a proposed rule, *Section 45V Credit for Production of Clean Hydrogen; Section 48(a)(15) Election To Treat Clean Hydrogen Production Facilities as Energy Property (88 Fed. Reg. 89220)*, that “contains proposed regulations relating to the credit for production of clean hydrogen (clean hydrogen production credit) and the energy credit, as established and amended by the Inflation Reduction Act of 2022, respectively. The proposed regulations would provide rules for: determining lifecycle greenhouse gas emissions rates resulting from hydrogen production processes; petitioning for provisional emissions rates; verifying production and sale or use of clean hydrogen; modifying or retrofitting existing qualified clean hydrogen production facilities; using electricity from certain renewable or zero-emissions sources to produce qualified clean hydrogen; and electing to treat part of a specified clean hydrogen production facility instead as property eligible for the energy credit. The proposed regulations would affect all taxpayers who produce qualified clean hydrogen and claim the clean hydrogen production credit, elect to treat part of a specified clean hydrogen production facility as property eligible for the energy credit, or produce electricity from certain renewable or zero-emissions sources used by taxpayers or related persons to produce qualified clean hydrogen.” Public comments will be accepted through Feb. 26, 2024. The notice also provides for a public hearing on March 25, 2024. Access a full analysis and summary of the rulemaking from law firm Weil, Gotshal & Manges LLP, [available here](#), and from law firm Troutman Pepper Hamilton Sanders LLP, [available here](#).

FEDERAL – Judicial

Regulatory Taking – Texas. On Nov. 7, 2023, in *Midas Resources, Inc. v. United States* (Case No. 21-1198L), the U.S. Court of Federal Claims addressed a claim against the United States for an “alleged physical taking of Midas’s mineral estate.” The claim arose a little more than a decade after Midas entered into its lease when the federal government “built a border wall on and adjacent to the surface estate, under which Plaintiffs lease the mineral estate.” Here, “Midas’s claim is that the government’s border wall has resulted in a compensable physical taking, thus requiring the government to pay Plaintiffs just compensation” under applicable law. The court, however, held that the claim was “devoid of facts to support” a claim of physical taking. Further, the court held that nowhere in the complaint does Midas allege “facts amounting to an ouster from its mineral rights, and the only allegation approaching a claim of complete ‘deprivation’ comes in the form of a conclusory statement that is unsupported by any factual allegations.” As such, the complaint was dismissed. [Read more.](#)

STATE – Legislative

Carbon Market Disclosures – California. (*Update to 10/30/23 Report*) As an update to our 2023 reporting, on Jan. 1, 2024, the new California carbon offset disclosure law, [AB 1305](#), took effect. As reported by law firm Pillsbury Winthrop Shaw Pittman LLP, the law requires “businesses marketing or selling voluntary carbon offsets (VCOs) or marketing products as having significantly reduced emissions within California to disclose on their website certain information concerning the projects that generated the VCOs and emission reductions. Additionally, AB 1305 requires the disclosure of certain information supporting any business activity or product purported to achieve net-zero emissions, carbon neutrality or a reduction in greenhouse gas (GHG) emissions. This law represents California’s latest attempt to reduce ‘greenwashing,’ hold[ing] businesses accountable for claims concerning GHG emission reductions and intensify transparency within the VCO market.”

Businesses will be required to update their disclosures at least annually. The Act also provides penalties for violations. [Read more.](#)

STATE – Regulatory

CalGEM CEQA Rework Exemptions Process

Guidance to Operators – California. On Dec. 29, 2023, the [California Environmental Quality Act \(CEQA\) Unit](#) of the California Geologic Energy Management Division (CalGEM) issued a guidance document on CEQA review for Notices of Intent for reworking of wells. According to the guidance, “This document provides guidance regarding review of Notices of Intent (NOIs) for the reworking of wells (Reworks) by the California Geologic Energy Management Division (CalGEM) CEQA Program. Its purpose is to provide general information about the process when CalGEM is conducting an initial review of a Notice of Intention or preparing a Preliminary Review (PR) of a proposed project that includes the rework of an existing oil and gas well(s). This document provides general guidance that applies to the review of all proposed reworks and more details on certain groups of reworks, including sample outcomes that tend to apply in typical situations. The guidance concludes with a summary of information operators may include in NOI submissions to facilitate efficient environmental review.” CEQA also notes that, “Scenarios described in this document are for illustrative purposes only, and are not determinative of any expected outcome, and should not be relied on by rework permit applicants as a guarantee of the sufficiency of an application prior to the issuance of a permit. CalGEM disclaims any responsibility for any such reliance. The guidance herein is not exhaustive and subject to revision and modification. Review of projects will proceed on a project-by-project basis.” [Read more.](#)

Department of Conservation Cost Estimate

Regulations for Oil and Gas Operations – California.

On Jan. 2, the California Department of Conservation announced that they have “made modifications to the text of the proposed regulations in the rulemaking action entitled *Cost Estimate Regulations for Oil and Gas Operations*” which AAPL provided to members last year.

With his announcement, the Department has provided a new proposed regulation document that clearly provides the original text and new, proposed text, [which can be accessed here](#). According to the California Independent Petroleum Association, “Based on staff review, the primary change is the acknowledgement of the potential use of land after decommissioning and that cost estimates may be lowered depending on what that land use might be. However, to make this reduction, operators are required to provide a signed letter from the landowner/mineral rights owner attesting to the planned future use of the land.” The modification to the proposed regulations opens up an extended public comment that runs through Jan. 17, 2024. [Read more](#).

Carbon Sequestration Wells and Operations Regulatory Authority – Louisiana. On Dec. 28, 2023, Gov. John Bel Edwards (D) and Louisiana Department of Natural Resources (DNR) Commissioner of Conservation Monique M. Edwards announced that the U.S. Environmental Protection Agency (EPA) “has formally granted Louisiana state primacy in the permitting and regulation of wells and projects involving the underground sequestration of carbon dioxide (CO2).” [Read the EPA announcement here](#). For background, “Permitting of such wells and operations, known as Class VI permits, is generally directly regulated by the EPA, though the EPA can grant primary regulatory authority to individual states that develop a regulatory framework that matches or exceeds the EPA’s Class VI standards, as is now the case in Louisiana’s Office of Conservation.” [Read more](#).

STATE – Judicial

Marketable Title Act; Leasing; Royalties – Ohio. On Dec. 20, 2023, the Ohio Seventh District Court of Appeals reversed a trial court judgment in [Kemp v. Rice Drilling D, LLC](#) (Case No. 2023-Ohio-4732) centered on the withholding of royalties based upon disputed mineral rights dating back to a 1917 deed. At issue in the case was the application of the Marketable Title Act and root of title to determine which parties owned the mineral interests subject to the oil and gas lease. The court concluded that “Appellants correctly argue on appeal that the trial

court should have determined that the oil and gas rights from the 1917 deed were extinguished by the Marketable Title Act (‘MTA’) because the reference to those rights was merely a general reference in the 1975 root title deed. Appellants also argue that Appellees should not have tried to recoup prior payments based on a provision of their lease strictly prohibiting recoupment, nor should they have purchased the questionable oil and gas rights and instead should have attempted to clear Appellants’ title. This second issue is not ripe for review because the trial court did not reach those issues once it erroneously decided against Appellants based on its interpretation of the MTA.” The court further explained that the “1975 deed was a proper root of title notwithstanding the recital of prior royalty reservation language because it still purported to convey mineral interest claimed” and a “royalty interest is not the same thing as a fee mineral interest, and as such, the 1975, 1992, and 1999 deeds’ reference to a prior reservation of a royalty interest was not a specific reference” to the interest in question. As noted by law firm Frost Brown Todd LLP, “On this last point, the Seventh District discussed the argument that the word ‘royalty’ could mean a fee mineral interest itself, but, after discussing recent jurisprudence acknowledging that a royalty can be an interest in real property, the appeals court rejected it as irrelevant because the Moore Interest doesn’t mention ‘royalty.’” [Read more](#).

Deed Reservations; Quiet Title – Pennsylvania. On Nov. 28, 2023, in *Lodge v. Hoyt* (Case Nos. 1294 MDA 2022, 1363 MDA 2022), the Pennsylvania Superior Court addressed the following issues on appeal related to a tax deed and quiet title action: (1) Can the invalidity of a recorded tax claim bureau deed for property never assessed or sold for taxes be challenged through a quiet title or similar action filed over six or twenty-one years from the deed’s recording; (2) Did the trial court err in its application of the summary judgment review standard in that, by not reaching the merits of the parties’ motions, the trial court presumed the validity of the recorded tax claim bureau deed, although the burden of proving such validity rested upon the tax claim purchaser who offered no undisputed evidence of the deed’s validity?;

and (3) Did the trial court err in its application of the summary judgment review standard in that, by not getting to the merits of the parties' motions, the Court ignored the existence of genuine issues of material fact about the invalidity of the recorded tax claim bureau deed? Here, the court noted that the trial court barred the appellants "from attacking the validity" of the appellees' "Tax Claim Deed and the underlying tax sale in their quiet title actions by the statute of limitations" [...] However, in reaching this conclusion, the trial court did not address the Hoyt Appellants' and Lodge Appellants' challenges to the validity of the tax sale itself." As such, the court found that the trial court relied on a case that was not applicable to "cases raising a jurisdictional challenge to a void tax sale and accompanying deed" and thus were not precluded from challenging the claim of ownership. Further, the court found there were genuine issues of material fact that had not been assessed, thus the grant of summary judgment was made in error at trial.

[Read more.](#)

INDUSTRY NEWS FLASH

► **Domestic Natural Gas Production Forecast to Grow, led by Permian Basin.** The U.S. Energy Information Administration has released their Short-Term Energy Outlook, which "estimated that U.S. natural gas production in the Lower 48 states" would grow by 2% in 2024. According to the EIA, "More natural gas is produced in Texas than any other state" and Permian gas production is forecast to increase by another 6% this year. [Read more.](#)

► **New Mexico Governor Proposes 10% Spending Increase in New Fiscal Year Resulting from Oil and Gas Production Windfall.** Last week, New Mexico Gov. Michelle Lujan Grisham (D) announced a \$10.5 billion budget plan for the coming fiscal year. As reported, the "No. 2 oil-producing state anticipates a multibillion-dollar surplus for the coming fiscal year, driven largely by oil and natural gas production in the Permian Basin that underlies southeastern New Mexico and western Texas." [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: California, Kentucky, Mississippi, Missouri, Nebraska, New York, and Pennsylvania are in regular session.

The following states are expected to convene for the 2024 legislative session on the dates provided: **Arizona, Georgia, Idaho, Iowa, Kansas, and Washington** (January 8), **Delaware, Florida, Indiana, New Jersey, South Carolina, South Dakota, and Tennessee** (January 9), **Colorado, Illinois, Maryland, Michigan, Ohio, Virginia, and West Virginia** (January 10), and **New Mexico** (January 16).

Bill Signing Deadlines: Michigan Democratic Gov. Gretchen Whitmer has 14 days from presentment to act on legislation or it is pocket vetoed. **Ohio** Republican Gov. Mike DeWine has 10 days to act on legislation or it becomes law. **Pennsylvania** Democratic Gov. Josh Shapiro has 30 days from adjournment to act on legislation or it becomes law. **Wisconsin** Democratic Gov. Tony Evers has six days from presentment, Sundays excluded, to act on legislation or it becomes law.

The following states are currently holding interim committee hearings or studies: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [Colorado](#), [Connecticut](#), [Delaware](#), [Florida House](#) and [Senate](#), [Georgia](#), [Hawaii](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Iowa](#), [Kansas](#), [Louisiana](#), [Maryland](#), [Minnesota](#), [Montana](#), [Nevada](#), [New Mexico](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#), [Oregon](#), [South Carolina House](#) and [Senate](#), [South Dakota](#),

[Tennessee](#), [Texas House](#), [Utah](#), [Virginia House](#), [Washington](#), [West Virginia](#) and [Wyoming](#).

The following states are currently posting 2024 bill drafts and pre-files: [Alabama](#), [Arizona](#), [Delaware](#), [Florida](#), [Georgia](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Iowa](#), [Kansas](#), [Maryland](#), [Nevada](#), [New Mexico](#), [North Carolina](#), [Oklahoma House](#) and [Senate](#), [South Carolina](#), [Tennessee](#), [Utah](#), [Virginia](#), [Washington](#) and [Wyoming](#). ■

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GOVERNMENTAL AFFAIRS REPORT

FEDERAL – Legislative

S. 3496 - Orphan Well Grant Flexibility Act of 2023.

On Jan. 10, 2024, official bill text was made available for [S. 3496](#), known as the Orphan Well Grant Flexibility Act of 2023. Sponsored by Sen. Mike Braun (R-IN), and supported by 12 bipartisan cosponsors, the bill would empower states to address “environmental hazards of abandoned wells.” One of the bill’s cosponsors, Sen. Ted Cruz (R-TX), said, “I am proud to lead the effort with Senator Braun to remove power from unelected Washington bureaucrats in dictating how abandoned orphan wells must be plugged. This bill will empower state governments, like Texas, with the flexibility they need to make the best decisions for their constituents.” [Read more.](#)

House Energy & Commerce Committee Hearing.

On Jan. 10, the House Energy & Commerce Committee, Subcommittee on Environment, Manufacturing, & Critical Materials, held a hearing titled, “Environment, Manufacturing, and Critical Materials Subcommittee Hearing: ‘Protecting Clean American Energy Production and Jobs by Stopping EPA’s Overreach.’” The purpose of the hearing was “to discuss EPA methane regulations and programs that will hurt American families, weaken businesses, and jeopardize our energy independence.” In a statement, Committee Chair Cathy McMorris Rodgers (R-WA) and Environment, Manufacturing, & Critical Materials Subcommittee Chair Bill Johnson (R-OH) said, “Maintaining America’s leadership in emissions reductions—while also ensuring people have access to affordable, clean energy—should be a top priority for the Environmental Protection Agency (EPA). Unfortunately, recent steps taken by the agency will impose regulations on methane that stifle innovation, increase operational and energy costs, and

dramatically expand the agency’s regulatory reach. These burdens will fall directly on American families and businesses, potentially jeopardizing thousands of jobs and billions of dollars in local economic development. This hearing is an opportunity to hold the EPA accountable for this harmful rush-to-green agenda.” Witnesses included representatives from the oil and gas industry, including Independent Petroleum Association of America member Drew Martin of Miller Energy. Martin told the committee that the EPA’s “one-size-fits-all approach to the methane tax and the performance standards OOOO subparts b and c do not work for marginal well producers like Miller Energy.” To access a full video recording of the hearing and witness testimony, [Read more.](#)

House Natural Resources Committee Hearing on Offshore Leasing.

On Jan. 11, the House Committee on Natural Resources Subcommittee on Energy and Mineral Resources held a hearing titled, “Examining the Biden Administration’s Limits on Access to the OCS: Impacts on Consumers, States, and Operators.” The hearing focused on the Department of the Interior’s recently released 2024-2029 National Outer Continental Shelf Oil and Gas Leasing Proposed Final Program “released nearly two years late” and which “significantly limits offshore oil and gas lease sales.” The hearing also considered pending legislation to expand those sales, including [H.R. 5616](#), which would require a higher number of offshore lease sales than provided for under the current OCS 5-year plan. Witness testimony included a representative from the Texas General Land Office. To access a full video recording of the hearing and witness testimony, [Read more.](#)

Senate Letter to the SEC Opposing Proposed Climate Disclosure Rulemaking for Publicly Traded Companies. On Jan. 9, Senators Kevin Cramer

(R-ND) and Shelly Moore Capito (R-WV) sent a letter to Securities and Exchange Commission Chairman Gary Gensler “regarding the Securities and Exchange Commission’s (SEC) proposed rule on climate-related disclosures for publicly-traded companies to disclose their greenhouse gas (GHG) emissions and other climate change-related information.” Although a final rule has been delayed multiple times throughout 2023 and its issuance is uncertain in 2024, the lawmakers note, “Congress did not change the SEC’s regulatory authority and, in fact, the Environmental Protection Agency is the federal agency charged with air emissions reporting and regulation. This begs the question of where the SEC’s presumptive and duplicative jurisdiction comes from. Moreover, required reporting of estimated Scope 3 emissions results in substantial over counting of emissions upstream and downstream in supply chains. These emissions are beyond a company’s control and the reporting will only be estimates likely provided by third-parties.” The letter stresses that, “Proposing and finalizing burdensome new regulations is the opposite of what the SEC should be doing to encourage more capital investment in American energy companies to halt inflation and strengthen our position amid realized geopolitical risks.” At present, the SEC has not provided the public with any notice as to when a final rule may be issued. [Read the letter here.](#)

Senate Letter to the Department of Energy Opposing Limits on LNG Exports. On Jan. 18, Sen. John Kennedy (R-LA) sent a letter to U.S. Department of Energy Secretary Jennifer Granholm, “urging the department to not limit U.S. exports of liquified natural gas (LNG) through enforcing unnecessary burdens in the permitting process.” Sen. Kennedy added, “the Department of Energy, through new guidelines and rulemakings, will crush a burgeoning U.S. industry that employs tens of thousands of Americans, provides cheap and reliable energy to millions, and is a vital instrument in weening the world off of dirty Russian energy.” [Read the letter here.](#)

FEDERAL – Regulatory

BLM Solar Energy Roadmap. On Jan. 17, the Bureau

of Land Management (BLM) announced “an updated roadmap for solar energy development across the West, designed to expand solar energy production in more Western states and make renewable energy siting and permitting on America’s public lands more efficient.” (See *Notice of Availability of the Draft Programmatic Environmental Impact Statement for Utility-Scale Solar Energy Development and Notice of Public Meetings*; [89 Fed. Reg. 3687](#)) With the BLM announcement comes their “draft analysis of the Utility-Scale Solar Energy Programmatic Environmental Impact Statement (known as the updated Western Solar Plan), which would streamline the BLM’s framework for siting solar energy projects in order to support current and future national clean energy goals, long-term energy security, climate resilience, and improved conservation outcomes.” [Read more.](#) As reported by *The Hill*, this updates a “2012 plan for solar power development in the western U.S., adding five states to the original six. The original plan identified prime areas for solar development in Arizona, California, Colorado, Nevada, New Mexico and Utah. The BLM on Wednesday updated and finetuned its analyses and added Idaho, Montana, Oregon, Washington and Wyoming to the plan.” [Read more.](#) The BLM will also be holding two virtual and six in-person public meetings during the comment period on the Draft Programmatic EIS. Public meetings will commence on Feb. 5, 2024, with the first being a virtual meeting. In-person public meetings will be held at locations in the solar development planning regions. For more information on attending a BLM meeting, [Read more.](#)

BLM Eastern Colorado Resource Management Plan. On Jan. 19, the BLM published a *Notice of Availability of the Record of Decision for the Approved Eastern Colorado Resource Management Plan for the Royal Gorge Field Office, Colorado* ([89 Fed. Reg. 3689](#)). Per the BLM, the Record of Decision (ROD) is for “the approved Resource Management Plan (RMP) for the Royal Gorge Field Office located in eastern Colorado. The Colorado State Director signed the ROD on January 9, 2024, which constitutes the final decision of the BLM and makes the approved RMP effective immediately.” Further, “The Eastern Colorado RMP will provide management direction for approximately 658,200 acres of BLM-administered surface land and approximately

3,311,900 acres of BLM-administered mineral estate. The decision area includes all BLM public lands and approximately 2,673,000 acres of split-estate Federal minerals on private, local government, and State lands.” [Read more.](#)

BLM Oil and Gas Lease Sale – Colorado. On Jan. 16, the BLM Colorado State Office “opened a 30-day public scoping period to receive public input on one oil and gas parcel totaling 120 acres that may be included in a September 2024 lease sale in Colorado. The comment period ends February 15, 2024.” [Read more.](#)

BLM Oil and Gas Lease Sale – North Dakota. On Jan. 8, the BLM Montana-Dakotas State Office “announced an oil and gas lease sale scheduled for March 12, 2024, to offer six oil and gas parcels totaling 2,336 acres in North Dakota. The BLM completed scoping on these parcels in Sept. 2023 and held a public comment period that closed in Nov. 2023 on the parcels, potential deferrals, and the related environmental analysis. A 30-day public protest period to receive additional public input opened today and will close Feb. 4, 2024.” [Read more.](#)

BLM Oil and Gas Lease Sale – Wyoming. On Jan. 9, the BLM Wyoming State Office “opened a 30-day public comment period to receive public input on 20 oil and gas parcels totaling 11,250.55 acres that may be included in an upcoming lease sale in Wyoming. The comment period ends February 8, 2024. The BLM completed scoping on these parcels November 2023 and is now seeking public comment on the parcels, potential deferrals, and the related environmental analysis. BLM will use input from the public to help complete its review of each parcel and determine if leasing of these parcels conforms with all applicable laws, policies, and land use plans.” [Read more.](#)

BLM Oil and Gas Lease Sale – Wyoming. On Jan. 16, the BLM Wyoming State Office “opened a 30-day public scoping period to receive public input on 5 oil and gas parcels totaling 239.38 acres that may be included in a September 2024 lease sale in Wyoming. The comment period ends February 15, 2024.” [Read more.](#)

BLM Grand Staircase-Escalante National Monument Advisory Committee Meeting. On Jan. 18, the BLM announced that the Grand Staircase-Escalante National Monument Advisory Committee will hold a virtual public meeting on Feb. 29, 2024. The meeting will include a status update on the monument Resource Management Plan. Public comments will be accepted and the public may attend the meeting. [Read more.](#)

Interior Department Wyoming Regulatory Program. On Jan. 19, the Interior Department Office of Surface Mining Reclamation and Enforcement published an approval of the Wyoming Regulatory Program ([89 Fed. Reg. 3562](#)). The approval states that the “Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving with exceptions an amendment to the Wyoming regulatory program (Wyoming program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Between 1978 and 2007, the Wyoming Legislature enacted a number of revisions to the statutes governing coal exploration by drilling. On March 2, 2016, the Wyoming Environmental Quality Council approved a number of revisions to the rules governing coal exploration by drilling under the Wyoming program. The State submitted this proposal to OSMRE at its own initiative.” [Read more.](#)

EPA Methane Emissions Proposed Rulemaking. On Jan. 12, the “U.S. Environmental Protection Agency (EPA) [announced a proposed rule](#) to tackle wasteful methane emissions from the oil and gas sector, delivering on Congress’ directive in the Inflation Reduction Act to incentivize adoption of industry best practices that reduce pollution. The proposed rule will assess a charge on certain large emitters of waste methane from the oil and gas sector that exceed emissions intensity levels set by Congress.” [Access the proposed rule here.](#) The latest proposal comes on the heels of the EPA’s Dec. 2023 “final rule that will sharply reduce emissions of methane and other harmful air pollution from oil and natural gas operations — including, for the first time, from existing sources nationwide. The final action includes New Source Performance Standards to reduce methane and smog-forming volatile organic compounds from new, modified

and reconstructed sources. It also includes Emissions Guidelines, which set procedures for states to follow as they develop plans to limit methane from existing sources. Oil and natural gas operations are the largest industrial source of methane pollution in the U.S.” [Read more](#). The proposed rule “includes the directive from Congress requiring EPA to impose and collect the emissions fees” and specifically implements the Inflation Reduction Act’s “Waste Emissions Charge for methane from certain oil and gas facilities that report emissions of more than 25,000 metric tons of carbon dioxide equivalent per year to the Greenhouse Gas Reporting Program. As directed by Congress, the Waste Emissions Charge starts at \$900 per metric ton of wasteful emissions in 2024, increasing to \$1,200 for 2025, and \$1,500 for 2026 and beyond, and only applies to emissions that exceed the statutorily specified levels.” [Access the EPA’s Waste Emissions Charge website and fact sheet here](#). As reported by *The Hill*, the “proposal hammers out further details on how the fee would be calculated and when oil and gas facilities would be eligible for exemptions” and the EPA “projects the rule will reduce emissions from methane by about 80 percent.” [Read more](#). According to the EPA, the proposed rule “addresses details regarding how the charge will be implemented, including the calculation of the charge and how exemptions from the charge will be applied. Facilities in compliance with the recently finalized Clean Air Act standards for oil and gas operations would be exempt from the charge after certain criteria set by Congress are met. The agency expects that over time, fewer facilities will face the charge as they reduce their emissions and become eligible for this regulatory compliance exemption.” [Read more](#). The EPA will hold an outreach webinar on Jan. 25, 2024 to provide an overview of key elements of the proposed rule. [Register here](#).

U.S. Department of Labor Independent Contractor Rule. To follow up our reporting since Oct. 2022, on Jan. 10, 2024, the U.S. Department of Labor (DOL) formally published their long-awaited final independent contractor rule, *Employee or Independent Contractor Classification Under the Fair Labor Standards Act* ([89 Fed. Reg. 1638](#)). According to the rule – which puts back in place the independent contractor analysis used

under the Obama administration – the purposes is “to replace its analysis for determining employee or independent contractor classification under the Fair Labor Standards Act (FLSA or Act) with an analysis that is more consistent with judicial precedent and the Act’s text and purpose.” The DOL provides, “As used in this rule, the term ‘independent contractor’ refers to workers who, as a matter of economic reality, are not economically dependent on an employer for work and are in business for themselves. Such workers play an important role in the economy and are commonly referred to by different names, including independent contractor, self-employed, and freelancer. This rule is not intended to disrupt the businesses of independent contractors who are, as a matter of economic reality, in business for themselves.” As clarified by law firm Pillsbury Winthrop Shaw Pittman LLP, “The Rule codifies the ‘economic realities’ test as the definitive analysis for classifying workers under the FLSA. The Rule looks to the totality of the circumstances, considering six factors to determine the degree of a worker’s economic dependence on an employer or customer. As the Rule explains, economic dependence does not focus on the amount of income workers earn or whether a worker has other sources of income. The key issue is whether workers are economically dependent on a potential employer for work — and therefore employees, or in business for themselves — and therefore independent contractors.” [Read more](#).

For background, in Oct. 2022, AAPL provided members with an opportunity to submit public comments on the proposed DOL rule. We also provided members with an in-depth [Fact Sheet](#) which provided analysis and a side-by-side comparison of how the Biden administration rule compared to the rule under the Trump administration. To view a redline comparison between the proposed and final rules, [Read more here](#). Unlike the current rule, the Trump-era DOL rule used a more permissive 5-factor test that put more emphasis on the first two factors: (1) The nature and degree of the worker’s control over the work; and (2) The worker’s opportunity for profit or loss. Under the Trump rule, if a worker exercised substantial control over key aspects of the performance of the work and has an opportunity for profit and loss (other than by working more hours or faster), the first two factors weighed in favor of

independent contractor classification, and it is “highly unlikely” the three remaining factors could outweigh the first two factors. The new rule does not favor any one of the 6 factors but takes an overall approach, often referred to as a “totality of the circumstances” test, to be used by courts where a worker challenges their employment status. According to national employment law firm Ford Harrison, “The factors are non-exhaustive, and no one factor is dispositive. The weight given to each factor will depend on the facts and circumstances of a particular case. The factors include the following: (1) Opportunity for profit or loss a worker might have; (2) The financial state and nature of any resources a worker has invested in the work; (3) Degree of permanence of the work relationship; (4) The degree of control an employer has over the person’s work; (5) Whether the work the person does is essential to the employer’s business; and (6) The worker’s skill and initiative.”

[Read more.](#) As posed by law firm Locke Lord during the proposed rule release, “What does this mean legally for both workers and businesses who are currently classified as ICs? Not much [...] since it is the courts that create law on this subject, not regulatory agencies.”

[Read more.](#) Access a more comprehensive analysis of each of the six factors from employment law firm Brownstein Hyatt Farber Schreck, LLP, [here](#), and from Proskauer Rose LLP, [here](#). The final rule takes effect March 11, 2024.

However, less than a week after the rule release, Fight for Freelancers, “a coalition of more than 2,500 freelancers,” filed a lawsuit in federal court challenging the rule. In their filing announcement the group said, “The government should protect the flexibility of freelancers and their clients to build mutually beneficial working relationships. Instead, the DOL’s new rule deliberately prevents workers and businesses from knowing whether anyone is an independent contractor and exposes those who work with freelancers to huge fines and criminal penalties for not knowing.” [Read more.](#) The U.S. Chamber of Commerce also announced it may file a legal challenge. And as with other recent Biden administration regulations, many state attorneys general are also expected to challenge the rule, which might stay its implementation. If the rule is temporarily stayed (delayed), it is unlikely it will take effect prior to the November elections and may effect whether it is

implemented should another candidate win the presidential election. We will continue to monitor this for AAPL members and keep you informed of any status updates. [Read more.](#)

STATE – Legislative

Oil and Gas Operations Water Usage – New Mexico.

On Jan. 16, Rep. Debra Sariñana (D) introduced [HB 30](#). The bill which amends the state Oil and Gas Act would prohibit certain uses of fresh water in oil and gas operations. The bill also requires an annual water use report. The reports would have to document “volume of fresh water, recycled produced water and treated produced water used in oil and gas operations. Those reports would be sent to the Oil Conservation Division in the EMNRD [Energy, Minerals and Natural Resources Department]. State regulators could note if the reports are incomplete or deficient. All reports would be published on the state’s website, according to the current version of the bill.” [Read more.](#)

Oil and Liquid Waste Spills – New Mexico.

On Jan. 16, Rep. Debra Sariñana (D) introduced [HB 31](#). The bill amends the state Oil and Gas Act to add “fines for oil or liquid waste spills and requires state regulators to make rules on preventing accidents. The bill would regulate disposal of produced water under the Safe Drinking Water Act, closing a federal loophole that exempts hydraulic fracturing from the law when enacted in 1974. HB 31 would use the fines to help plug dry and abandoned oil wells. It requires operators to give public notification for people living within two miles of any spill. The proposal also requires notice to any sovereign tribal nation in New Mexico with land within 10 miles of a spill. The bill allocates \$750,000 to allow EMNRD to hire five employees to carry out the work.” [Read more.](#)

Well Setbacks; Health Protection Zones –

New Mexico. On Jan. 16, Rep. Debra Sariñana (D) introduced [HB 32](#). The bill which amends the state Oil and Gas Act would establish “Children’s Health Protection Zones” that “would include a one-mile setback from school property, limiting how close oil

and gas production could be from schools.” The bill would also provide for “additional penalties for polluting in those areas.” As reported, “HB 32 seeks to ban that activity within those zones after 2028, except under very limited exceptions. If the current version passes, it would enact more stringent protocols for detecting leaks and giving public notification around schools when that occurs.” [Read more.](#)

State Lands Royalty Rate – New Mexico. On Jan. 16, Rep. Matthew McQueen (D) introduced HB 48. Regarding public state lands, the bill would increase the royalty rate for future oil and gas development leases. [Read more.](#)

Oil and Gas Wells – New Mexico. On Jan. 16, Rep. Kristina Ortiz (D) introduced HB 133. The bill would amend the Oil and Gas Act by allowing the Oil Conservation Division of the Energy, Minerals and Natural Resources Department to regulate certain transfers of oil and gas wells and authorize the conversion of oil and gas wells for energy storage and geothermal development. The bill also increases the amount of fees and financial assurance associated with operating oil and gas wells, as well as increasing civil penalties; allowing fees to be adjusted to account for inflation; requiring the capture of 98 percent of natural gas produced beginning in 2027; and providing for certain setbacks from oil and gas facilities. [Read more.](#)

Environmental Constitutional Amendment – New Mexico. On Jan. 16, Rep. Joanne Ferrary (D) introduced [HJR 4](#). This House Joint Resolution is “proposing to amend the constitution of New Mexico by adding a new section of Article 2 that provides the people of the state with environmental rights, including the right to clean and healthy air, water, soil and environments, a stable climate and self-sustaining ecosystems, and directs the state, counties and municipalities to serve as trustees of the natural resources of New Mexico for the benefit of all the people.” The amendment would need to “be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.” [Read more.](#)

Federal Permitting Reform – West Virginia. On Jan. 15, SCR 16 was adopted by the Senate just 3 days after its introduction by Lt. Governor Craig Blair (R). The concurrent resolution urges the U.S. Congress to “enact reforms to federal permitting policies to accelerate deployment of new energy infrastructure.” The bill has been transmitted to the House for consideration. [Read more.](#)

[STATE – Regulatory](#)

Governor Releases Budget with Elimination of Oil & Gas Tax Benefits – California. On Jan. 10, Gov. Gavin Newsom (D) released his proposed budget deficit reduction plan that “includes eliminating a series of tax benefits used commonly by independent oil producers in Kern County, much more than by larger companies, to save state government \$22 million in 2024 and \$17 million per year thereafter. The administration proposal unveiled Wednesday amounts to a far softer hit to the industry than the \$8 billion in cutbacks requested the day before by a coalition of state lawmakers and climate and environmental justice advocates whose favored programs would suffer much bigger reductions totaling an estimated \$3 billion.” Specifically, the budget proposes eliminating the following oil and gas industry subsidies: (1) Immediate Deduction for Intangible Drilling Costs, “which allows oil and gas producers to deduct intangible costs such as survey work, ground clearing, drainage, and repairs;” (2) Percentage Depletion Rules for Fossil Fuels, “which allows businesses to deduct a fixed percentage of gross income that is higher than the normal cost-depletion method when it comes to resource depletion of mineral and other natural resources;” and (3) Enhanced Oil Recovery Costs Credit, “which provides certain independent oil producers a nonrefundable credit equal to 5 percent of the qualified enhanced oil recovery costs for projects located in the state if the reference price of domestic crude oil falls above a specified threshold for the preceding year.” [Read more.](#) The Governor’s budget is a starting point for negotiation, and any budget proposals must also be adopted by the state legislature and are expected to change during the legislative process. [Read more.](#)

ECMC Cumulative Impacts Rulemaking – Colorado.

On Jan. 17, the Colorado Energy & Carbon Management Commission (ECMC) announced it is initiating a rulemaking on Cumulative Impacts pursuant to state law. With the announcement, the ECMC has released their draft, preliminary (“Strawdog”) rule to gather feedback from the public and stakeholders. The rule will address Cumulative Impacts from oil and gas operations, which “means the addressable combined impacts from Oil and Gas Operations on public health and the environment, including the impacts on air quality, water quality, the climate, noise, odor, wildlife, and biological resources and to Disproportionately Impacted Communities. In evaluating Cumulative Impacts, the Commission may consider the incremental impact from proposed Oil and Gas Operations when added to other potentially significant land uses within 1 mile of a proposed Oil and Gas Location, including Industrial and Manufacturing Operations that have pending or approved permits, or are in current operation.” [Read the draft rule here.](#) ECMC has also opened up a public comment period that will run through Jan. 29, 2024. [Submit a public comment here.](#) Finally, the ECMC has also provided a rulemaking timeline, with an expected revised draft rule to follow their initial release by February/March. We will keep AAPL members informed as the ECMC continues their rulemaking process. [Read more.](#) To learn more about the legislative and regulatory goals of Cumulative Impacts regulations in Colorado, [Read more.](#)

RRC Produced Water Recycling Pilot Studies – Texas.

On Jan. 10, the Texas Railroad Commission (RRC) announced it “has issued a framework for pilot programs that could greatly enhance environmental protection in Texas with the potential to recycle produced water safely and economically.” [The RRC framework is available here.](#) The RRC said, “Operators will apply for authorization to conduct pilot studies, and RRC will issue a permit or letter of authorization if the application meets requirements. The operators would compile data of how treated produced water can be reused in certain activities that are safe and protective of human health and the environment.” The RRC further notes, “The produced water recycling framework is a starting point and will evolve over time in collaboration

with the work of others such as the academic community, consortia, industry, and community leaders. The information obtained by these pilot studies can be used to develop more focused regulation on produced water recycling and help guide future development.”

[Read more.](#)

PAW Creates the Wyoming Carbon Innovation Network.

The Petroleum Association of Wyoming (PAW) has announced the formation of a new group, the Wyoming Carbon Innovation Network. The group will be exploring “carbon management” that will address removing carbon from oil and gas production and how to use the carbon that is removed. As reported, the network’s co-chair Julie Martinez said, “they’ll be looking at everything from, ‘dealing with the carbon, but it’s also where do you put the carbon? How do you move the carbon? How do you extract it from the air?’” Martinez also said, “she sees the network as a way to support the future of Wyoming’s oil and gas industry, jobs and the environmental goals.” [Read more.](#)

INDUSTRY NEWS FLASH

► API warns Biden's oil policies threaten the next energy crisis.

On Jan. 10, the American Petroleum Institute warned that while domestic oil and gas production is booming, policies being imposed now by the Biden administration “could jeopardize the country’s energy might.” API President Mike Sommers said, “Despite the silver lining of increased production, we’re very concerned about what the clouds look like ahead if we don’t get the policies right now. The continued signals from this administration and the policies they are pursuing — we have real concerns that is sowing the seeds for the next energy crisis.”

[Read more.](#)

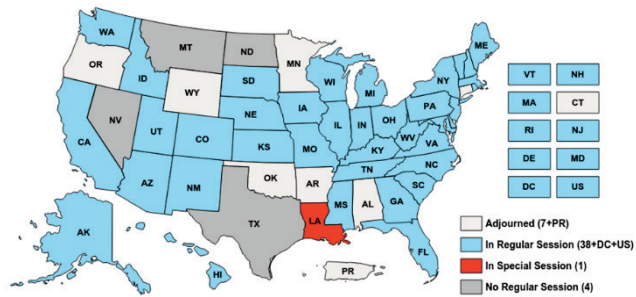
► Chesapeake Energy to acquire Southwestern Energy in \$7.4 billion deal.

On Jan. 4, Chesapeake Energy announced it has agreed to acquire Southwestern Energy in an all-stock transaction valued at \$7.4 billion, “a deal that will make it the largest independent U.S. natural gas producer.”

As reported by *Reuters*, “The purchase is expected to close next quarter.” [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Alaska, Arizona, California, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia and Wisconsin are in regular session. The U.S. Congress is also in session.

The following states are expected to convene for the 2024 legislative session on the dates provided:

Oklahoma (February 5), **Alabama** (February 6), **Wyoming** (February 12), **Louisiana** (March 11) and **Arkansas** (April 10).

Oklahoma Republican Gov. Kevin Stitt issued an [executive order](#) to convene a special session on January 29. According to [Fox 25](#), the special session will seek a 0.25 percent reduction in income tax, though House Democrats have called the session “wasteful.” Governor Stitt called a similar special session last October, but it adjourned quickly without advancing any tax cut legislation.

Bill Signing Deadlines: **Michigan** Democratic Gov. Gretchen Whitmer has 14 days from presentment to act on legislation or it is pocket vetoed. **Ohio** Republican Gov. Mike DeWine has 10 days to act on legislation or it becomes law. **Pennsylvania** Democratic Gov. Josh Shapiro has 30 days from adjournment to act on legislation or it becomes law.

Wisconsin Democratic Gov. Tony Evers has six days from presentment, Sundays excluded, to act on legislation or it becomes law.

The following states are currently holding interim committee hearings or studies: [Alabama](#), [Arkansas](#), [Connecticut](#), [Louisiana](#), [Minnesota](#), [Montana](#), [Nevada](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#), [Oregon](#), [Texas House](#) and [Wyoming](#).

The following states are currently posting 2024 bill drafts and pre-files: [Alabama](#), [Louisiana](#), [Nevada](#), [Oklahoma House](#) and [Senate](#) and [Wyoming](#). ■

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GOVERNMENTAL AFFAIRS REPORT

FEDERAL – Legislative

S. 3655 - Strategically Lowering Gas Prices Act.

On Jan. 24, Sen. Ted Budd (R-NC) introduced [S. 3655](#), known as the Strategically Lowering Gas Prices Act. The bill “would prohibit the Biden administration from releasing oil from the Strategic Petroleum Reserve (SPR) until any executive orders blocking energy development on federal land that would otherwise be available for leasing are revoked.” According to Sen. Budd, “Working Americans and small businesses alike are struggling with the high cost of fuel. At the same time, President Biden’s war on American energy has left him with precious few options to ease this economic pain. Instead of encouraging domestic production, his administration has begged foreign nations to increase their energy output, which increases America’s dependence on volatile international markets. He has also tapped our own emergency oil reserves to such an extent that we are no longer well-positioned to deal with the next crisis. The best way to lower fuel prices is for President Biden to reverse his radical environmentalist agenda and pursue an ‘all of the above’ strategy that gets us back to American energy independence. That’s what my bill will force President Biden to do.” [Read more.](#)

FEDERAL – Regulatory

BLM Resource Advisory Council – Utah. On Jan. 25, the Bureau of Land Management (BLM) announced that the Utah Resource Advisory Council (RAC) will be holding multiple meetings and field tours beginning in March. Both in-person and virtual options will be available. RAC meetings are open to the public. “The Utah RAC provides recommendations to the Secretary of the Interior, through the BLM, on a variety of public lands issues.” [Read more.](#)

BLM Oil and Gas Lease Sale – Mississippi. On Jan. 26, the BLM Eastern States State Office “announced an oil and gas lease sale scheduled for March 26, 2024, to offer three oil and gas parcels totaling 91 acres in Mississippi. The BLM completed scoping on these parcels in November 2023 and held a public comment period that closed in December 2023 on the parcels, potential deferrals, and the related environmental analysis. A 30-day public protest period to receive additional public input opened today and will close Feb. 26, 2024.” [Read more.](#)

BLM Solar Development Plan. On Jan. 22, the BLM announced it “is holding two virtual and six in-person open-house meetings in February and March to provide information on the Department of the Interior’s ongoing efforts to support appropriate renewable energy development on our nation’s public lands through an updated Western Solar Plan.” According to the BLM, “the public meetings will preview the BLM’s proposed revisions to the agency’s Utility-Scale Solar Energy Programmatic Environmental Impact Statement (known as the updated Western Solar Plan), which would streamline the BLM’s framework for siting solar energy projects and expand BLM’s solar energy program to cover five additional states across the West.” [Read more.](#)

EPA Methane Emissions Proposed Rulemaking.

(Update to 1/22/24 Report) As an update to our prior reporting, on Jan. 30, the Independent Petroleum Association of America (IPAA) sent a letter to the U.S. Environmental Protection Agency requesting a 30-day comment period extension for the EPA proposed rule, *Waste Emissions Charge for Petroleum and Natural Gas Systems* ([89 Fed. Reg. 5318](#)). The letter states, “IPAA believes a 30-day extension of the WEC Rule comment period is both necessary and reasonable in order for IPAA staff and its members to fully analyze the

proposed WEC Rule and its connections to the Subpart W Rule and Methane Rule, develop comments, and inform EPA's final rule." [Read the letter here](#). The current comment period deadline is March 11, 2024. For background, on Jan. 12, the EPA released their proposed methane waste emissions charge rulemaking that "will assess a charge on certain large emitters of waste methane from the oil and gas sector that exceed emissions intensity levels set by Congress." [Read more](#).

Interior Department National Wildlife Refuge System Proposed Rulemaking. On Feb. 2, the Interior Department and U.S. Fish and Wildlife Service (FWS) published a proposed rule, *National Wildlife Refuge System; Biological Integrity, Diversity, and Environmental Health* ([89 Fed. Reg. 7345](#)), "to ensure that the biological integrity, diversity, and environmental health (BIDEH) of the National Wildlife Refuge System (Refuge System) are maintained, and where appropriate, restored and enhanced, in accordance with the National Wildlife Refuge System Improvement Act of 1997. In addition, the Service is proposing updates to the existing BIDEH policy, which will be available for public comment concurrently with the proposed regulations in this docket. These proposed regulatory and policy revisions would support conservation throughout the Refuge System in response to both longstanding and contemporary conservation challenges, including the universal and profound effects of climate change on refuge species and ecosystems. Together, these proposals would uphold BIDEH across the Refuge System by providing refuge managers with a consistent approach for evaluating and implementing management actions to protect vulnerable species, restore and connect habitats, promote natural processes, sustain vital ecological functions, increase resilience, and adapt to climate change." The public comment period will be open through March 4, 2024. As reported by *Bloomberg Law*, "Environmental groups say they hope the new rules will make it more challenging for any company to ever drill for oil in the Arctic National Wildlife Refuge." However, FWS spokesperson Christine Schuldheisz said the agency "will consider all of its statutory obligations when considering future oil and gas development within the Refuge System." [Read more](#).

U.S. Department of Energy LNG Export Restrictions.

On Jan. 24, AAPL joined the American Exploration and Production Council, American Petroleum Institute, Independent Petroleum Association of America, and dozens of other industry and trade groups "in urging the Biden administration to reject calls to halt permits for U.S. LNG export facilities." In a letter to U.S. Department of Energy Secretary Granholm, "the groups emphasized the critical role that continued U.S. LNG exports play in safeguarding national security, creating U.S. jobs, supporting our European allies and contributing to global climate goals." [Read the letter here](#). The letter comes on the heels of the Biden administration signaling it may impose limits on permitting approvals for U.S. LNG infrastructure and exports to meet certain climate change goals. As stressed in the letter, "Our industry is proud to support our allies and global emissions goals, but the geopolitical and climate benefits of American energy exports cannot be maintained with a regulatory regime that moves at the whims of political pressure. We urge you to reject calls for DOE to prolong the review period or create new hurdles as it considers approvals for new LNG projects and terminals." [Read more](#). **UPDATE:** As reported by *Bloomberg Government*, on Jan. 26, the Biden administration "halted the approval of new licenses to export liquefied natural gas while it scrutinizes how the shipments affect climate change, the economy, and national security — a moratorium likely to disrupt plans for billions of dollars in projects. New exports are now vetted on a case-by-case basis to see whether they are in the public interest — a threshold established by federal law — but government assumptions used in those reviews haven't been updated since 2018. The pause is set to at least temporarily stall projects in development — including Commonwealth LNG, Energy Transfer, and Venture Global LNG facilities planned in Louisiana." [Read more](#). The same day, Sen. Joe Manchin (D-WV), who chairs the Senate Committee on Energy and Natural Resources, announced he plans to hold hearings to "investigate the Biden administration's announcement of a temporary pause of pending decisions on exports of liquefied natural gas" and focus on "this administration's motivations and their implications." [Read more](#).

Trade Groups Send Letter to Congress Urging Action on LNG Exports. On Jan. 30, the Energy Workforce & Technology Council sent a letter to Congressional leaders urging action on LNG exports following the Biden administration's permitting pause on LNG export facilities. Joined by trade groups such as the Independent Petroleum Association of America, Texas Alliance of Energy Producers, and the Western Energy Alliance, the letter notes that "Given the national security implications of this misguided decision for both the United States and our European allies, we urge you to quickly advance legislation to remove the Department of Energy from the non-FTA permitting process to allow critical LNG infrastructure to move forward." [Read the letter here.](#)

Office of Natural Resources Revenue Annual Penalty Inflation Adjustments. On Jan.22, the Office of Natural Resources Revenue (ONRR) published their *2024 Civil Monetary Penalty Inflation Adjustments* final rule ([89 Fed. Reg. 3884](#)). This rule is published every year to adjust for inflation the civil monetary penalty (CMP) amounts it assesses under federal law. The rule provides a comparable table between the 2023 maximum penalty for each category and the new 2024 adjustments. [Read more.](#)

FEDERAL – Judicial

Wind Development; Mineral Estates – Oklahoma. On Dec. 20, 2023, in [United States v. Osage Wind, LLC](#) (Case No. 4:14-cv-00704-JCG-JFJ), the U.S. District Court for the Northern District of Oklahoma "awarded permanent injunctive relief in favor of the Osage Nation and the United States against wind turbine farm developers in the form of ejectment of the wind farm for continuing trespass. A trial to assess the amount of monetary damages due for trespass and conversion will follow." This long-running case arose from a finding that the wind developers were required to have a mineral lease, which they did not, and not just surface use agreements for their wind farm development in Osage County, Oklahoma. [Read a comprehensive background of the case from the Oklahoma Bar Association Journal here.](#) The court found "that the use of the backfill created from extracted

rocks did constitute a continuing trespass. The court relied substantially on the 10th Circuit's earlier holding that the alteration of the excavated rocks and re-use of the crushed rocks to support the foundation constituted unauthorized mining. The court further noted that its broad interpretation of 'mineral development' was supported by the 'Indian canon of interpretation that requires the Court to liberally construe ambiguity in laws intended to benefit Indians in favor of Indians.' In granting the harsh relief of ejectment of the wind farm, the court seemed particularly persuaded by the developers' continuing refusal to obtain a mineral rights lease even after the 2019 10th Circuit ruling that the developers' practices constituted unauthorized mining of the land. To protect the sovereignty of the Osage Nation, the court ordered the removal of the wind towers."

[Read more.](#)

STATE – Legislative

Limitations on EPA Regulatory Oversight – West Virginia. On Jan. 12, Sen. Patrick Martin (R) introduced [SB 358](#). Known as the Natural Resources Anti-Commandeering Act, the bill would end state and local enforcement of certain U.S. Environmental Protection Agency rules and regulations by prohibiting state agencies, political subdivisions, and their employees from knowingly and willingly participating in the enforcement of any federal act, law, order, rule, or regulation relating to coal, oil, gas, timber, or other extractive resources, or downstream industries related to such extractive resources if it does not exist under state law. The bill would also prohibit the use of any assets, state funds, or funds allocated by the state to local entities for the enforcement of the same. [Read more.](#)

For all bills AAPL is currently monitoring and tracking for members, please see the continuously updated member exclusive AAPL Governmental Affairs Bill Tracking Summary spreadsheet. Available through the AAPLConnect LANDNEWS and Governmental Affairs Network member forums [here](#) or on the AAPL website [here](#).

STATE – Regulatory

New Mexico Environment Department Climate Action Plan Meetings. On Jan. 31, the New Mexico Environment Department (NMED) announced the state will hold community events related to the Climate Pollution Reduction Grant (CPRG) Program awarded by the U.S. Environmental Protection Agency “to support the State in creating two climate action plans (a priority plan and a comprehensive plan) for implementing effective greenhouse gas reduction strategies while ensuring the benefits of these actions are delivered to New Mexicans, especially Low Income or Disadvantaged Communities.” To learn more about New Mexico’s CPRG Program, [Read more](#). The next events are open to the public and will be held on Feb. 7 and Feb. 10. [Read more](#).

RRC Votes in Favor of Asking the State Attorney General to Challenge EPA Emissions Standards – Texas. On Jan. 30, Texas Railroad Commissioners voted in favor of requesting Texas Attorney General Ken Paxton challenge new methane emissions standards released by the U.S. Environmental Protection Agency (EPA). As reported by the *Houston Chronicle*, “The regulations would force oil and gas companies [...] to reduce emissions of methane, a potent greenhouse gas, and smog-forming volatile organic compounds over the next one to two years.” [Read more](#). The Railroad Commission notes that it has “joined the Texas Commission on Environmental Quality to coordinate pushback against the rules through multiple public comments submitted to the EPA.” The request is an outgrowth of Texas bill, [HB 33](#), enacted in 2023, that bars “state officials from helping enforce any federal oil and gas law that contradicts the state’s own laws.” As of this reporting, the Attorney General’s office has not responded publicly about whether or how it will proceed. [Read more](#).

RRC Criticizes Biden Administration’s Pending Decision to Pause LNG Exports – Texas. On Jan. 24, Texas Railroad Commissioner Wayne Christian sent a letter to President Joe Biden and Energy Secretary Jennifer Granholm regarding the Biden Administration’s consideration of a pause on permits for new liquefied

natural gas (LNG) export projects, “criticizing the potential action and encouraging them to grow LNG exports to support America’s allies abroad.” According to Railroad Commissioner Christian, “America becoming energy dominant again – like in 2019 – is the key to restoring global order, and that starts with a strong LNG export industry. I don’t know about President Biden, but I’d much rather have the world buy America’s clean natural gas over gas anywhere else. LNG can be a beacon of hope, where many countries no longer produce their own fossil fuels due to the Net Zero agenda. Our energy strategy should be to increase production of our domestic fossil fuels and export that reliable energy to our allies across the globe.” [Read the letter here](#).

INDUSTRY NEWS FLASH

► **Texas oil and gas jobs continue to grow.**

According to the latest data released by the Texas Workforce Commission, oil and gas jobs have seen continual growth with over 31,000 jobs added as of Dec. 2023. [Read more](#).

► **California sees a four-decade decline in crude production.** According to a recent *Reuters* article, “It is the end of an era for Big Oil in California, as the most populous U.S. state divorces itself from fossil fuels in its fight against climate change. California’s oil output a century ago amounted to it being the fourth-largest crude producer in the U.S., and spawned hundreds of oil drillers, including some of the largest still in existence. Oil led to its car culture of iconic highways, drive-in theaters, banks and restaurants that endures today.” But, “companies long ago stopped investing in California production, and now want to hive off their old wells there” due to an unfavorable political climate. [Read more](#).

GOVERNMENTAL AFFAIRS REPORT

FEDERAL – Legislative

H. Con. Res. 90 – LNG Export Permits. On Feb. 6, Rep. Brandon Williams (R-NY) was joined by 10 other cosponsors in introducing [H. Con. Res. 90](#). The concurrent resolution “urges a return to permitting LNG exports for the sake of economic prosperity and national security, and condemning the Biden Administration for halting LNG exports.” Rep. Williams said, “The President’s suspension of LNG exports is an example of the worst kind of retaliation politics. He’s put American families who depend on the jobs created by the extraction, processing, and shipping of LNG in harm’s way because of a separate issue he has with the Governor of Texas. Beyond that, this rash decision sends a signal to our allies in Europe that we are not a trustworthy alternative to Russian natural gas. These same allies are using our LNG to wean off of Russian supply, but will be backed into a corner— President Biden strengthens Putin at the expense of American workers.” [Read more](#). In related news, [H.R. 7176](#), Unlocking our Domestic LNG Potential Act, passed the House on Feb. 19. The bill would reverse the recent ban imposed by the Biden Administration by “lifting all DOE restrictions on the import and export of natural gas.” [Read more](#).

House Energy & Commerce Committee Hearing Regarding LNG Export Ban. On Feb. 6, the House Energy & Commerce Committee, Subcommittee on Energy, Climate & Grid Security, held a hearing titled, “Energy, Climate, and Grid Security Subcommittee Hearing: ‘Politics Over People: How Biden’s LNG Export Ban Threatens America’s Energy and Economic Security.’” According to the hearing memo, “The Biden administration’s indefinite ‘pause’ on liquefied natural gas (LNG) exports jeopardizes American energy security, jobs, and the economy. This latest attack on energy production is a political

decision to appease radical climate activists at the expense of our energy security and the security of our allies. If President Biden were serious about environmental stewardship, he would unleash the production and export of clean, affordable, and reliable American natural gas—which has allowed us to reduce emissions more than any other nation. This hearing will be an opportunity to explore the many benefits of American LNG not only for the U.S., but for our allies as well.” Among the testifying witnesses was Toby Z. Rice, President and CEO of EQT Corporation, who said, “Let’s call this what it is: the Biden administration’s decision is pure politics. We all know what this really is: an election year stall designed to garner votes.” To access a full video recording of the hearing and witness testimony, [Read more](#). In related news, on Feb. 6, 23 state attorneys general sent a letter to President Biden and Energy Secretary Jennifer Granholm urging the President “to end the ‘pause’ on exports of liquefied natural gas (LNG).” The letter states that “Instead of addressing America’s real energy challenges, your administration has decided to double down on a reckless environmental agenda through this TikTok-inspired ‘pause.’ But this surprise freeze is (1) unlawful, (2) harmful to our economy, and (3) detrimental to our national security. It emboldens and empowers Iran and Russia, while further hampering our ability to protect ourselves. the LNG pause on approvals for new export sites and facilities.” [Read the letter here](#). Further, the attorneys general argue that the Department of Energy had no authority “to issue blanket denial of export permits” and no such statutory authority was cited by the administration when announcing the pause. The letter also implies that legal challenges may be forthcoming. [Read more](#).

Senate Committee on Energy & Natural Resources Committee Hearing on LNG Export Approvals Pause and Process for Assessing Applications. Related to

the above coverage, on Feb. 8, the Senate Committee on Energy & Natural Resources held a “Full Committee Hearing to Examine the Administration’s Pause on LNG Export Approvals and the Department of Energy’s Process for Assessing LNG Export Applications.” In his opening remarks, Committee Chairman Joe Manchin (D-WV) said, “The White House has gone out of its way to signal that the pause is a political ploy intended to get votes in an election year—it’s all about politics, not economics and not based in facts.” Sen. Manchin also said, “Unfortunately, it seems the White House has already sided with climate activists determined to block any more LNG exports, and I am deeply concerned the White House will put its thumb on the scale at DOE to get the political outcome they want.” In his testimony, David Turk, Deputy Secretary at the U.S. Department of Energy (DOE), told senators that the DOE’s “evaluation of the impact of additional US LNG exports on the climate and economy should take ‘months, not years.’” Turk also said, “Put simply, this temporary pause to update our analyses will not impact our ability to supply our allies with LNG [...] This pause on additional approvals does not interfere with current exports nor other projects already authorized or under construction.” [Read more.](#) To access a full video recording of the hearing and witness testimony, [Read more.](#)

FEDERAL – Regulatory

BLM Resource Advisory Council – Colorado.

On Feb. 12, the Bureau of Land Management (BLM) announced the Colorado Northwest Resource Advisory Council (RAC) will hold its 2024 winter meeting on Feb. 28. The RAC meeting will be held both in person in Craig, CO, and virtually, and is open to the public. “Agenda items include field manager updates, discussions on orphaned wells, planning updates, and a presentation by Colorado Parks and Wildlife on sage grouse.” [Read more.](#)

EPA and DOE Announce Intent to Fund Projects to Reduce Methane Emissions from the Oil and Natural Gas Sectors. On Feb. 9, the U.S. Environmental Protection Agency (EPA) and the U.S. Department of

Energy (DOE) announced a Notice of Intent (NOI) “to make funds available to help measure and reduce methane emissions from the oil and gas sectors as part of President Biden’s Investing in America agenda.” According to the NOI, “This funding from the Inflation Reduction Act will help oil and natural gas sector operators cut methane emissions and transition to innovative methane emissions reduction technologies, while also supporting partnerships to improve emissions measurement and provide accurate, transparent data to impacted communities. Through a combination of technical and financial assistance, the Methane Emissions Reduction Program will help reduce inefficiencies in U.S. oil and gas operations, create new jobs in energy and disadvantaged communities, improve public health, and realize near-term emission reductions—helping reach the nation’s ambitious climate and clean air goals.” [Read more.](#)

LNG Export Licensing Freeze. On Feb. 8, the Independent Petroleum Association of America joined other manufacturing, business, and midstream trade associations who sent a letter to President Biden once again opposing the “Department of Energy freeze on consideration of U.S. LNG export license applications.” The letter writers “urge immediate approval of all pending LNG export licenses, together with rescission of the order pausing the processing of applications for LNG export licenses by the Department of Energy.” [Read the letter here.](#)

FEDERAL – Judicial

Emissions Reporting – California. On Jan. 30, the U.S. Chamber of Commerce, California Chamber of Commerce, and other business groups sued the California Air Resources Board (CARB) in federal court to stop the implementation of two climate bills passed in the California legislature last year. In [Chamber of Commerce of the United States of America v. California Air Resources Board](#) (Case No. 2:24-cv-00801), the lawsuit “challenges two novel California laws that unlawfully attempt to regulate speech related to climate change. [Senate Bills 253](#) and [261](#) impermissibly compel thousands of businesses to make costly, burdensome, and

politically fraught statements about ‘their operations, not just in California, but around the world.’” As reported by the California Independent Petroleum Association, those bills “mandate companies to disclose their carbon emissions and financial risks associated with climate change to investors.” Thus, the lawsuit “argues that these laws infringe upon the First Amendment by compelling companies to partake in speech against their will, without any commercial purpose, and exert political and economic pressure to align with state political desires.” [Read further legal analysis here](#). Neither CARB nor the state attorney general has yet to respond to the lawsuit. [Read more](#).

National Outer Continental Shelf Oil and Gas Leasing Program – Washington, DC. On Feb. 12, the American Petroleum Institute (API) filed a petition in federal court “challenging the Biden administration’s 2024-2029 National Outer Continental Shelf Oil and Gas Leasing Program.” [Read the API Press Release here](#). In [American Petroleum Institute v. Department of the Interior](#), the API “argues the 2024-2029 Gulf of Mexico leasing plan issued by the Biden administration ‘limit[s] access’ to energy, despite federal law requiring the development of a five-year plan that ‘best meets’ American energy needs.” Of the plan, the API said, “Interior’s final five-year program outlined a maximum of three potential oil and gas lease sales – the fewest oil and gas lease sales in a five-year program in history – in the Gulf of Mexico Program Area scheduled in 2025, 2027 and 2029. 2024 will be the first year since 1966 without an offshore lease sale.” The petition asks the U.S. Court of Appeals for the District of Columbia to review the government’s Record of Decision and Approval for the leasing program because it is “arbitrary, capricious, and not in accordance with law.” [Read more](#).

STATE – Legislative

Oil and Gas Drilling Ban – Colorado. On Feb. 13, [SB24-159](#) was introduced by Sen. Sonya Jaquez Lewis (D). The bill would “ban new oil and gas drilling in Colorado by 2030 — which sponsors claim is necessary to counteract climate change and address ‘adverse health impacts’ — is raising a furor

throughout the industry.” A spokesperson for Gov. Jared Polis said the governor was not consulted on the proposal and hadn’t reviewed it yet. In addition to the 2030 oil and gas drilling ban, “the measure imposes liability for decommissioning and remediating wells, saying it is ‘just and equitable for the owners and operators that have profited from oil and gas activity to pay for the remediation costs.’ It goes on to say that ‘it is a matter of great importance to public health and safety’ that the costs ‘be paid to the fullest extent by all potentially responsible parties.’ The proposal makes prior owners and operators liable for cleanup costs of wells, regardless of how long ago they owned the facility and whether the prior operator violated any law.” The bill also provides for rulemaking which “must include certain reductions in the total number of oil and gas wells covered by new permits issued in 2028 and 2029; also requires the commission to include as a condition in any permit issued after July 1, 2024, that certain operations must commence on or before December 31, 2032, as to each oil and gas well included in the permit; [and] provides for mitigation of adverse environmental impacts resulting from oil and gas operations.” [Read more](#).

Independent Energy Office – Pennsylvania.

On Feb. 5, the Senate Appropriations Committee approved [SB 832](#) following its introduction by Sen. Gene Yaw (R). According to Sen. Yaw, the bill “will establish the Independent Energy Office (IEO) within the Commonwealth. Pennsylvania has one of the most diverse energy portfolios in the United States. We have energy sectors ranging from gas, coal, nuclear, renewables, hydro, geo-thermal and wood to name a few. Similar to the Independent Fiscal Office (IFO), the IEO would not support or oppose any policy it analyzes. The IEO would be charged with providing impartial, timely and data driven analysis to guide the state in determining and meeting future energy needs.” [Read more](#).

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STATE – Regulatory

Hydraulic Fracturing Phase-Out Rulemaking – California. On Feb. 9, the California Department of Conservation's Geologic Energy Management Division (CalGEM) released their "Well Stimulation Permitting Phase-Out" proposed rulemaking for public comment. [Read the proposed rule here](#). The rule would phase-out hydraulic fracturing in the state but does not set a sunset date, and although no new permits have been issued since 2021, CalGEM "will officially cease to approve hydraulic fracturing permits on California oil and gas wells" with the rule. Originally, CalGEM considered a five-year phase-out but rejected that in the released rulemaking. "Among the reasons for phasing out permits for fracking the Geologic Energy Management Division cited was that widespread public concern and dissatisfaction regarding hydraulic fracking activities and perceived impacts associated with it have continued to intensify in the years since it started a thorough permitting process for the practice." [Read more](#). According to CalGEM, "The release begins a 45-day public comment period that ends on March 27, 2024. All comments received will be considered for incorporation into the regulation." CalGEM will also hold a virtual public meeting on March, 26. [Read more](#). For more resources on the proposed regulations, visit the CalGEM rulemaking website and access documents under the heading: "Well Stimulation Permitting Phase-Out." [Read more](#).

New Governor Makes Oil and Gas Industry Announcements – Louisiana. On Feb. 5, Louisiana's recently elected governor Jeff Landry (R) made several announcements regarding the oil and gas industry during his keynote speech at the Louisiana Mid-Continent Oil and Gas Annual Meeting. Gov. Landry first announced he will sign a proclamation supporting the oil and gas industry and will "sign an executive order to expedite permitting processes that may cause hold-ups. He said there would be a dashboard to see the permitting process in real-time."

[Read more](#). Gov. Landry also recently announced "a \$100 million bond allocation for the expansion project at Chevron's Geismar Renewable Diesel Plant" that "is expected to bring 90 new permanent jobs and 1,500 temporary jobs" to the state. [Read more](#).

Clean Transportation Fuel Standards – New Mexico. [HB 41](#), known as the Clean Transportation Fuel Standards bill, has passed the legislature and now heads to the governor for signature. As provided in an agency analysis, the bill "would amend the Environmental Improvement Act to require the EIB [Environmental Improvement Board] to promulgate regulations governing the carbon intensity of transportation fuels. The bill defines 'carbon intensity' as 'the quantity of fuel lifecycle emissions per unit of fuel energy, expressed in grams of carbon dioxide equivalent per megajoule.' The bill would also provide definitions of 'transportation fuel' and 'fuel lifecycle.' HB 41 would further require that the regulations adopted by the EIB meet a number of criteria, including but not limited to: being technology neutral; reducing the carbon intensity of transportation fuels used in the state by 20% from 2018 levels by 2030 and 30% by 2040; allowing for trading of credits among regulated entities and producers and others; taking into consideration equivalent rules in other jurisdictions and coordinating as appropriate; requiring utilities to invest net credit revenue from the program into transportation infrastructure and projects; considering adoption of additional mechanisms; not discriminating against fuels based on state or jurisdiction of origin; and establishing appropriate permits and fees." The bill also empowers the New Mexico Environment Department (NMED) "to maintain, develop, and enforce regulations for the program." [Read more](#). An NMED fact sheet states, "A Clean Fuel Standard creates a Clean Fuel Market where credits are bought, sold and traded depending on the carbon intensity of the transportation fuel. The Clean Fuel Market only applies to those companies that import or produce transportation fuels for use in New Mexico – everything from traditional fossil fuel diesel to cleaner fuels such as renewable diesel, biodiesel, renewable natural gas and electricity." [Read the HB 41 fact sheet here](#). For additional resources on HB 41 and the Clean Fuel Standard, [visit the NMED website here](#).

Land Conservation Incentives Tax Credit Rulemaking Amendments – New Mexico. On Jan. 30, the New Mexico Energy, Minerals and Natural Resources Department (EMNRD) adopted final rules for the Land Conservation Incentives Tax Credit. According to EMNRD, “This is an amendment to 3.13.20 NMAC, amending Sections 7 through 15, effective 1/30/2024.” The tax credit relates to “Charitable donations of land – or an interest in land (conservation easement) – to public or private conservation agencies for conservation purposes” which “are eligible for a state tax credit through the New Mexico Land Conservation Incentives Act.” To see the amendments in the new rule and a comparison to the prior rule, [see the Final Rule here](#). For more information about the EMNRD Land Conservation Incentives Tax Credit program and applications and procedures, [Read more here](#).

Carbon Capture and Hydrogen Production Public Briefing – Ohio. Carroll County, Ohio will be holding a public briefing on “carbon capture, hydrogen production and related infrastructure development activities” on Feb. 28. According to the announcement, “business and community leaders and interested residents are invited to attend a special briefing” sponsored by the Carroll County Farm Bureau. The briefing will cover “infrastructure requirements and related production activities in Carroll County, energy market trends, remediation standards, as well as regulatory agencies governing different types of energy development.” [Read more](#).

Carbon Dioxide Storage Hub – Ohio; Pennsylvania; West Virginia. A carbon dioxide storage hub is seeking 80,000 acres across Western Pennsylvania, Ohio, and West Virginia. As reported on Feb. 13, by the Pittsburgh Post-Gazette, “Landmen are knocking on doors again in southwestern Pennsylvania, eastern Ohio and West Virginia. This time, it’s not to make deals for what’s already in the ground, but for the empty spaces that could hold the region’s industrial waste — the carbon dioxide that comes out of smokestacks across the tri-state region.” Tenaska is developing the Tri-State Carbon Capture and Sequestration Hub in the region. “We’ve got active negotiations with lots of landowners across eight counties in three states,” said Bret Estep,

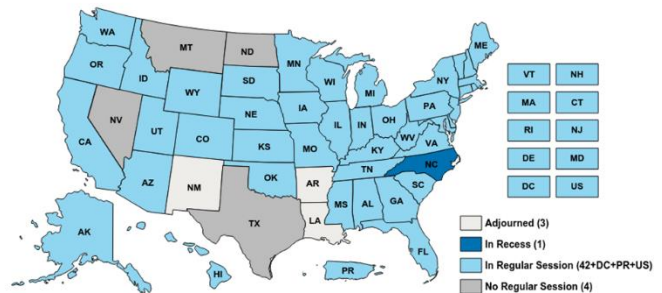
vice president of development for Tenaska. “The reception so far has been ‘excellent,’ he said. ‘I’ve been very impressed.’” [Read more](#).

INDUSTRY NEWS FLASH

► **Texas Oil & Gas Producers Pay Record Royalties.** The Texas Oil and Gas Association (TxOGA) reports that the Texas “oil and gas industry paid a record \$26.3 billion dollars in state and local tax royalties, which is over \$1.5 million dollars more than last year’s record. TxOGA said those funds, about \$73 million dollars a day, go directly to Texas public schools, universities, and roads.” [Read more](#).

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming are in regular session. The U.S. Congress is also in session.

The following states are expected to convene for the 2024 legislative session on the dates provided: Louisiana (March 11) and Arkansas (April 10).

New Mexico adjourned its 2024 legislative session on February 15 and Democratic Gov. Michelle Lujan Grisham has until March 6 to act on legislation or it is pocket vetoed.

The following states are expected to adjourn on the dates provided: **Utah** (March 1), **Florida**, **Washington** and **Wyoming** (March 8) and **Virginia** and **West Virginia** (March 9).

The following states are currently holding interim committee hearings or studies: [Arkansas](#), [Louisiana](#), [Montana](#), [Nevada](#), [North Dakota](#) and **Texas** [House](#).

The following states are currently posting 2024 bill drafts and pre-files: [Louisiana](#) and [Nevada](#). ■

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GOVERNMENTAL AFFAIRS REPORT

FEDERAL – Legislative

H.R. 7409 – Harnessing Energy at Thermal Sources (HEATS) Act. On Feb. 20, [H.R. 7409](#), known as the Harnessing Energy at Thermal Sources (HEATS) Act, was introduced by Rep. Young Kim (R-CA). The bill would “speed up U.S. energy production by streamlining geothermal energy infrastructure development and production.” According to Rep. Kim, “The HEATS Act would expedite geothermal energy production by clarifying that geothermal operators do not need a federal drilling permit for wells that are on state and private lands where the subsurface geothermal estate is less than 50% federal. While operators would be exempt from federal permitting requirements, they would still be subject to state permitting regulations.” [Read more.](#)

Senate Energy & Natural Resources Committee Hearing on Developing Geologic Hydrogen. On Feb. 29, the U.S. Senate Committee on Energy & Natural Resources held a hearing titled, *Full Committee Hearing to Examine the Opportunities and Challenges Associated with Developing Geologic Hydrogen in the United States*, the purpose of which was to “ensure the United States continues to lead the world in advanced energy technologies by using all of our abundant resources in the cleanest way possible – including all types of hydrogen – to safeguard our country’s energy security.” As noted by Committee Chairman Joe Manchin (D-WV) in his opening statement, “the Department of Energy predicts demand for hydrogen to increase tenfold by 2030 in the United States and it has the potential to decarbonize up to 25% of global energy emissions. The development of the hydrogen industry is also expected to promote new economic opportunities for Americans and create over 100,000 new good jobs, particularly exciting for the areas that have historically

carried the load of powering our nation.” Witnesses included government officials and industry stakeholders. To access a full video recording of the hearing and witness testimony, [Read more.](#)

FEDERAL – Regulatory

BLM Agency Information Collection. On Feb. 22, the Bureau of Land Management (BLM) published a notice of information collection and request for comment, *Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Use and Occupancy Under the Mining Laws (89 Fed. Reg. 13358)*. According to the BLM, “This information collection enables the BLM to regulate the use and occupancy of unpatented hardrock mining claims, and to take any action necessary to prevent unnecessary or undue degradation of public lands as a result of such use or occupancy. The BLM collects information from mining claimants who want to undertake the activities that are necessary to locate a mining claim or mill site.” The public comment period is open through March 25, 2024. [Read more.](#)

BLM Onshore Oil and Gas Operations Civil Penalties Inflation Adjustments. On Feb. 26, the BLM published a final rule, *Onshore Oil and Gas Operations and Coal Trespass-Annual Civil Penalties Inflation Adjustments (89 Fed. Reg. 13982)*, which reflects the annual adjustment of “the amounts of civil monetary penalties contained in the BLM regulations governing onshore oil and gas operations and coal trespass. This final rule is required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and consistent with applicable Office of Management and Budget (OMB) guidance. The adjustments made by this final rule constitute the 2024 annual inflation adjustments and account for one year of inflation spanning the period from October 2022 through

October 2023.” The final rule is effective immediately. [Read more.](#)

BLM Oil and Gas Lease Sale – Utah. On Feb. 13, the BLM Utah State Office “opened a 30-day public scoping period to receive public input on two oil and gas parcels totaling 833 acres that may be included in a May 2025 lease sale in Utah. The comment period ends March 14, 2024.” [Read more.](#)

BLM Mineral Protections – New Mexico. On Feb. 14, the BLM announced it “is proposing to protect 4,213 acres within the Placitas area in Sandoval County, New Mexico, from new mining claims and mineral activity. BLM invites public comment on the environmental assessment of the proposal, which intends to conserve sacred Tribal land, boost important local recreation opportunities, and support wildlife habitat connectivity.” The proposed protections “would prevent location and entry under United States mining laws; leasing under the mineral leasing laws, and disposal under mineral materials disposal laws, subject to valid existing rights, for up to 50 years.” The public comment period is open through March 15, 2024. [Read more.](#)

Trade Groups Challenge LNG Export Pause. On Feb. 26, the American Petroleum Institute led other trade groups, including the American Exploration & Production Council, the Interstate Natural Gas Association of America, and other trade groups, in filing a petition with the U.S. Department of Energy requesting a “Rehearing of the Department of Energy’s Indefinite ‘Pause’ of Consideration of Applications for Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations.” As reported by *Bloomberg Government*, the groups “say the indefinite delay runs afoul of a legal mandate for the agency to issue permits to broadly export LNG unless there’s been a clear finding the shipments aren’t in the public interest.” The petition sets out numerous errors in the administration’s decision and urges the Department of Energy “to lift this Indefinite Pause and to resume the statutorily mandated consideration of export applications to non-free trade agreement countries.” [Read the petition here.](#)

Interior Department Categorical Exclusions Notice of Policy Revisions. On Feb. 26, the Interior Department published a notice of proposed policy revisions, *National Environmental Policy Act Implementing Procedures for the Bureau of Land Management (516 DM 11)* (89 Fed. Reg. 14087). According to the Interior Department, “This notice announces the intent to revise the Bureau of Land Management’s (BLM) policies and procedures for compliance with the National Environmental Policy Act (NEPA), as amended, various Executive Orders, and the Council on Environmental Quality’s NEPA Implementing Regulations by proposing to remove four administratively established categorical exclusions (CXs) and to incorporate two CXs established by Congress [...] Specifically, BLM is proposing to revise the list of BLM actions that are normally categorically excluded from the requirement to complete an environmental assessment (EA) or environmental impact statement (EIS) absent extraordinary circumstances.” One of the removals involves sage-grouse habitats. “Removing these CXs would require the BLM to assess whether another CX applies or prepare an EA or EIS when proposing actions that would have previously been covered by these CXs.” For background, a categorical exclusion “is a class of actions that a Federal agency has determined, after review by CEQ [Council on Environmental Quality], do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental assessment nor an environmental impact statement is normally required. The use of categorical exclusions can reduce paperwork and save time and resources.” [Read more about CXs here.](#) The public comment period is open through March 27, 2024. [Read more.](#)

FEDERAL – Judicial

Arctic National Wildlife Refuge Oil and Gas Leasing Program – Alaska. On Feb. 22, the U.S. District Court for the District of Alaska upheld the “suspension of oil and gas survey work in the Arctic National Wildlife Refuge.” In the opinion in [Alaska Industrial Development and Export Authority v. Biden](#) (Case No. 3:21-cv-00245-SLG), Judge Sharon

Gleason “declined to reconsider a 2023 ruling against the Alaska Industrial Development and Export Authority, which won oil leases in the refuge during a January 2021 sale and sued the Biden administration after it suspended those leases.” Those leases were subsequently cancelled by the administration, which is the subject of a separate lawsuit. Here, the court wrote, “Plaintiffs have not shown that there was a manifest error of law or fact. They have not presented newly discovered or previously unavailable evidence. Nor do they claim that a manifest injustice has occurred or that there has been any intervening change in controlling law.” [Read more.](#)

STATE – Legislative

Natural Gas Property Tax Valuation – West Virginia. [HB 4850](#), the natural gas property valuation sunset clause removal bill, has passed both chambers and now heads to the governor. The Republican-sponsored measure keeps in place “a controversial valuation formula for taxing oil, natural gas, and natural gas liquids, but not before a lawmaker secured a promise for lawmakers to develop a new formula next year.” The bill, if enacted, will “remove a July 1, 2025, sunset provision for a formula to determine the value of personal property that produces oil, natural gas and natural gas liquids. The formula has been the center of issues involving the state Tax Division since the passage in 2022 of House Bill 4336 after the West Virginia Supreme Court of Appeals threw out the previous formula in 2019.” The problem is that the “Tax Division has had numerous issues since the end of 2022 with being able to use the formula, including numerous delays in providing valuations to county assessors, miscommunications with taxpayers, a backlog in appeals, and at least one lawsuit. This year, state tax officials sent out notices informing oil and natural gas-producing property owners that the appraised values on their property increased, but the notices did not say what the dollar amount appraisal was.” There have also been “clerical error” issues resulting in well undervaluations. Lawmakers have committed to addressing these issues in the 2025 legislative session. [Read more.](#)

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STATE – Regulatory

Energy & Carbon Management Commission Cumulative Impacts Report – Colorado. On Feb. 28, the Colorado Energy and Carbon Management Commission (ECMC) “announced the Director delivered the 2023 ‘[Report on the Evaluation of Cumulative Impacts](#),’ as required by SB 19-181 to regulate oil and gas development in a manner that is protective of public health, safety, welfare, wildlife and environmental resources. The annual report is intended to inform the Commission of data, trends, and considerations in the ongoing evaluation of cumulative impacts from oil and gas operations. The report uses the Cumulative Impacts Data Evaluation Repository (CIDER), which includes data from the same comparative number of Oil & Gas Development Plans (OGDPs) approved by the Commission in 2023 as prior years.” In addition, the ECMC report “includes the second year of Cumulative Impacts Data Evaluation Repository (CIDER) data associated with high priority habitats (HPHs), providing for the first time the ability to compare data sets. The report also now includes the comparison of initial estimated water use to actual water used. The Director highlighted the trends seen in this report including: a reduction in overall well-counts and oil and gas locations across the state; reductions in per-well average emissions of NOx and VOC; and, a reduction in per-well averages of construction and post-interim reclamation disturbances within HPHs. The report discusses the collective work of multiple state agencies on the Greenhouse Gas (GHG) Pollution Reduction Roadmap, and summarizes the biennial GHG inventory modeling showing that the Oil and Gas Sector is achieving and exceeding its GHG emission reduction goals.” [Read more.](#)

Energy & Carbon Management Commission High Priority Habitat Updated Rulemaking – Colorado.

On Feb. 28, the Colorado Energy & Carbon Management Commission (ECMC) released notice of High Priority Habitat rulemaking. The rulemaking is an update to existing rules. [Read the announcement here](#). Per the ECMC, “The proposed High Priority Habitat map updates are a result of inventories and monitoring to determine the status and extent of high priority habitat areas. The following High Priority Habitat areas have been identified by CPW as needing maps modifications: big game seasonal habitats (winter concentration areas, severe winter ranges, migration corridors, and production areas), Columbian sharp-tailed grouse winter range, bald eagle roost sites, least tern and piping plover production areas, and bat winter hibernacula. These updates also reflect changes to any CPW owned State Wildlife Areas and State Parks within the State of Colorado.” The ECMC has also provided that “Persons or organizations wanting to participate in this rulemaking as a party are required to file a written request for party status with the Commission on or before Thursday, March 21, 2024, by 2:00 p.m. The Commission will compile a list of all parties with contact information and make it available on the Commission’s website. Late requests for party status will not be accepted absent good cause for the delay.” [Access the ECMC request form here](#). To learn more about ECMC High Priority Habitat maps and rulemaking, [Read more](#).

Governor Polis Launches Updated Comprehensive Climate Action Plan – Colorado. On Feb. 26, Gov. Jared Polis (D) “released the second version of the climate action plan to cut greenhouse gas (GHG) pollution in half by 2030, and make progress toward net-zero GHG pollution in Colorado by 2050.” For background, “First released in 2021, the original [Greenhouse Gas Pollution Reduction Roadmap](#) (‘Roadmap’) laid out a set of near-term commitments to reduce emissions across economic sectors. Having completed more than 95% of the near-term actions from the original Roadmap, [‘Roadmap 2.0’](#) updates Colorado’s emissions forecast and lays out a new set of bold actions to save Coloradans money and continue making progress toward a clean energy future.” [Read more](#). Of the various methods outlined in the

Roadmap to decrease airborne pollutants, some include studying alternative uses for oil and gas wells; achieving emission reductions from well-plugging; and beginning to develop a statewide industrial decarbonization strategy. [Read more](#).

Ohio Oil and Gas Land Management Commission Approves Bids on Nominations – Ohio. On Feb. 26, the Ohio Oil and Gas Land Management Commission approved bids on nominations on formations and parcels on state lands that have “been nominated for leasing for the exploration for and the development and production of oil or natural gas.” [Read more](#). The approval came despite public protests opposing the approvals at a recent public meeting. The approvals allow hydraulic fracturing “for oil and gas under land owned by the Ohio Department of Natural Resources and the Ohio Department of Transportation, including state parks and designated wildlife areas.” The state will receive \$59.7 million in bonus payments under the leases and each lease has a 12.5% royalty rate. [Read more](#).

STATE – Judicial

State Leasing – Ohio. On Feb. 23, a Franklin County court dismissed a lawsuit brought by environmentalists seeking to halt oil and gas leasing on state lands. In *Save Ohio Parks v. Oil & Gas Management Commission* (Case No. 23CVF-11-8540), the litigants brought the action against the state Oil & Gas Land Management Commission challenging the approval of requests to drill for oil and gas in public parks and wildlife areas. The court held that the parties lacked standing in the case because there lacks “any concrete or specific injury.” The court agreed with the Commission that “at this stage of the process – the only thing approved is that a bidding process can start as to the nominated land.” [Read more](#).

INDUSTRY NEWS FLASH

► Domestic oil production reaches record levels.

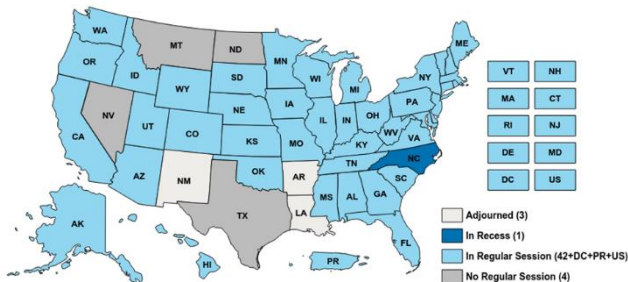
According to data released by the U.S. Energy Information Administration (EIA), “Domestic oil

production in the U.S. reached a new record in November of 2023, hitting 13.31 million barrels per day.” The EIA reports that the “previous record was 13.25 million barrels per day. That was set in September 2023” and “production of crude oil in the U.S. has increased by 68% in the past 10 years.” [Read more.](#)

► **University of Wyoming projects to boost oil and gas production.** University of Wyoming is engaged in research projects with the “eventual goal of more oil and gas production in the Powder River Basin.” With roughly \$53 million in funding, the research will “eventually employ new technologies and strategies to increase production capabilities for wells in Johnson, Campbell and Converse counties.” [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming are in regular session. The U.S. Congress is also in session.

The following states are expected to convene for the 2024 legislative session on the dates provided: **Louisiana** (March 11) and **Arkansas** (April 10).

New Mexico adjourned its 2024 legislative session on February 15 and Democratic Gov. Michelle Lujan Grisham has until March 6 to act on legislation or it is pocket vetoed.

The following states adjourned, or are expected to adjourn, on the dates provided: **Utah** (March 1), **Florida** and **Wyoming** (March 8), **Virginia** and **West Virginia** (March 9), and **Indiana** and **Wisconsin** (March 14).

The following states are currently holding interim committee hearings or studies: [Arkansas](#), [Louisiana](#), [Montana](#), [Nevada](#), [North Dakota](#) and [Texas House](#).

The following states are currently posting 2024 bill drafts and pre-files: [Louisiana](#) and [Nevada](#). ■

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GOVERNMENTAL AFFAIRS REPORT

FEDERAL – Legislative

S.J. Res. 63/H.J. Res. 116 – Resolution of Disapproval of the U.S. Department of Labor Independent Contractor Rule. Congressional Republican lawmakers have introduced resolutions of disapproval seeking to nullify the recent U.S. Department of Labor Independent Contractor Rule” that changes the test for determining if a worker is an independent contractor. [S.J. Res. 63](#) was introduced by Sen. Bill Cassidy (R-LA) and [H.J. Res. 116](#) was introduced by Rep. Kevin Kiley (R-CA). To learn more about the U.S. Department of Labor Independent Contractor Rule, which took effect on March 11, 2024, [read the exclusive AAPL Fact Sheet here.](#)

House Natural Resources Committee Hearing on Federal Energy Legislation. On March 6, the House Committee on Natural Resources, Subcommittee on Energy and Mineral Resources, held a legislative hearing on multiple energy bills. Specifically, [H.R. 6482](#): “Enhancing Geothermal Production on Federal Lands Act” (Amends the Geothermal Steam Act of 1970 to promote timely exploration for geothermal resources under geothermal leases); [H.R. 7370](#), “Geothermal Energy Opportunity Act” (to establish a deadline for processing applications related to geothermal leasing); [H.R. 7375](#) (to amend the Mineral Leasing Act to improve the assessment of expression of interest fees); [H.R. 7377](#), “Royalty Resiliency Act” (amends the Federal Oil and Gas Royalty Management Act to ensure the federal government collects royalties only on resources that have been recovered from federally-managed lands); [H.R. 7409](#), “Harnessing Energy At Thermal Sources Act” or the “HEATS Act” (would speed up U.S. energy production by streamlining geothermal energy infrastructure development and production; would expedite geothermal energy

production by clarifying that geothermal operators do not need a federal drilling permit for wells that are on state and private lands where the subsurface geothermal estate is less than 50% federal. While operators would be exempt from federal permitting requirements, they would still be subject to state permitting regulations); [H.R. 7422](#), “Geothermal Cost-Recovery Authority Act of 2024” (To amend the Geothermal Steam Act of 1970 to provide cost-recovery authority for the Department of the Interior; allows for cost recovery from geothermal leasing, permitting, and inspections). Testifying witnesses included Dan Naatz, Chief Operating Officer of the Independent Petroleum Association of America, who spoke on H.R. 7375 and H.R. 7377. To access a full video recording of the hearing and witness testimony, [Read more.](#)

FEDERAL – Regulatory

EPA Emissions Rule for Existing Sources in the Oil and Natural Gas Sector. On March 8, the U.S. Environmental Protection Agency (EPA) released their final rule, *Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review* ([89 Fed. Reg. 16820](#)). According to the EPA, the rule “is finalizing multiple actions to reduce air pollution emissions from the Crude Oil and Natural Gas source category. First, the EPA is finalizing revisions to the new source performance standards (NSPS) regulating greenhouse gases (GHGs) and volatile organic compounds (VOCs) emissions for the Crude Oil and Natural Gas source category pursuant to the Clean Air Act (CAA). Second, the EPA is finalizing emission guidelines (EG) under the [Clean Air Act] CAA for states to follow in developing, submitting, and implementing state plans to establish performance standards to limit GHG emissions from existing sources

(designated facilities) in the Crude Oil and Natural Gas source category. Third, the EPA is finalizing several related actions stemming from the joint resolution of Congress, adopted on June 30, 2021, under the Congressional Review Act (CRA), disapproving the EPA's final rule titled, 'Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review,' September 14, 2020 ('2020 Policy Rule'). Fourth, the EPA is finalizing a protocol under the general provisions for optical gas imaging (OGI)." The rulemaking was completed Nov. 30, 2023, and officially announced by EPA Administrator Michael Regan at the COP28 climate talks in Dubai, United Arab Emirates held in December 2023. According to the EPA, the rule "will sharply reduce emissions of methane and other harmful air pollution from oil and natural gas operations. The rule includes standards to reduce methane and volatile organic compounds (VOCs) from new, modified, and reconstructed sources. It also includes Emissions Guidelines for states to follow as they develop plans to limit methane emissions from existing sources. Oil and natural gas operations are the largest industrial source of methane pollution in the U.S. Methane is a climate 'super pollutant,' and rapid, sharp cuts in methane emissions are a crucial addition to cutting carbon dioxide in slowing the rate of warming of Earth's atmosphere." [Read an EPA Fact Sheet here.](#) The rule applies to production and processing, such as onshore well sites; storage tank batteries; gathering and boosting compressor stations; and natural gas processing plants. Some key aspects of the rule include: (1) expanded methane detection monitoring; (2) a two-year phase-in period for eliminating routine flaring of natural gas from new oil wells, and a one-year phase-in of zero-emissions standards for new process controllers and pumps outside of Alaska; (3) a program to leverage third-party expertise to find large emissions known as "super emitters;" and (4) The rule gives states, along with Tribes that wish to regulate existing sources, two years to develop and submit their plans for reducing methane from existing sources. The final emission guidelines also give existing sources ample lead time for compliance, providing three years from the deadline for plan submission for existing sources to comply. [See a detailed EPA presentation here.](#) Oil and gas industry stakeholders have been critical of this 400+ page rule,

including the Independent Petroleum Association of America, who said, "these new source regulations will impose complicated new requirements that could be structured more cost effectively and EPA's requirements for existing sources would lead to the shutdown of 300,000 of about 750,000 total low-production wells." Since its release, the Texas Attorney General has already [filed a legal challenge in federal court](#), at the request of the Texas Railroad Commission. [Read more.](#) And Republican lawmakers in Congress also vow to overturn the rule through a resolution nullifying it pursuant to the Congressional Review Act, which allows Congress to nullify rules within a certain time period after they're finalized. The rule is scheduled to take effect May 7, 2024, unless it is stayed by a federal court in the many pending legal actions challenging it. To learn more, the public can attend the EPA "Alternative Test Method - Advanced Methane Detection Technology" webinar on April 15, 2024, that "will focus on the options in the final rule for using advanced methane detection technologies, such as satellite monitoring, aerial surveys, and continuous monitors, to find leaks or Super-Emitter events. The webinar will include details on the process for applying to use alternative test methods and what needs to be included in the application." [Read more.](#) For a deeper dive into the rule, including EPA regulatory document resources, future trainings, and contacts at the EPA for questions about the rule for oil and natural gas operations, [Read more.](#)

Interior Department; Bureau of Land Management Greater Sage-Grouse Rangewide Planning. On March 15, the Interior Department and Bureau of Land Management (BLM) published a *Notice of Availability of the Draft Resource Management Plan Amendment and Environmental Impact Statement for Greater Sage-Grouse Rangewide Planning* ([89 Fed. Reg. 18963](#)). The notice announces that the BLM "has prepared a Draft Resource Management Plan Amendment (RMPA) and Draft Environmental Impact Statement (EIS) for Greater Sage-Grouse Rangewide Planning and by this notice is providing information announcing the opening of the comment period on the Draft RMPA/EIS and on the BLM's consideration of potential areas of critical environmental concern." As reported by *Bloomberg Government*, the draft plan would restrict oil and gas

development on some swaths of land in the eight Western states and the Dakotas. “The plan calls for allowing oil and gas leasing, but restricting development by preventing the surface of the land from being disturbed in many areas, a restriction called ‘no surface occupancy.’ The scope of those restrictions will vary by state. The goal of the plan is to improve and restore Greater Sage-Grouse habitat by cooperating with state wildlife agencies. The draft is based on components of previous plans the BLM adopted in 2015 and 2019 while incorporating new scientific research and considering more than 1,900 public comments.” The public comment period is open through June 13, 2024. The BLM is also planning to hold multiple public meetings on the plan, for which we will keep AAPL members updated once the BLM has provided those locations and dates in the coming weeks. [Read more.](#)

Interior Department National Wildlife Refuge System Proposed Rulemaking. (*Update to 2/5/24 Report*) On March 5, the Interior Department and U.S. Fish and Wildlife Service extended the comment period for their proposed rule, *National Wildlife Refuge System; Biological Integrity, Diversity, and Environmental Health* ([89 Fed. Reg. 7345](#)), initially released on Feb. 2 with a comment period closing on March 4. Public comments will now be accepted through May 6, 2024. [Read more.](#) For background, the proposed rule seeks “to ensure that the biological integrity, diversity, and environmental health (BIDEH) of the National Wildlife Refuge System (Refuge System) are maintained, and where appropriate, restored and enhanced, in accordance with the National Wildlife Refuge System Improvement Act of 1997. In addition, the Service is proposing updates to the existing BIDEH policy, which will be available for public comment concurrently with the proposed regulations in this docket. These proposed regulatory and policy revisions would support conservation throughout the Refuge System in response to both longstanding and contemporary conservation challenges, including the universal and profound effects of climate change on refuge species and ecosystems. Together, these proposals would uphold BIDEH across the Refuge System by providing refuge managers with a consistent approach for evaluating and implementing management actions to protect vulnerable species,

restore and connect habitats, promote natural processes, sustain vital ecological functions, increase resilience, and adapt to climate change.” As reported by *Bloomberg Law*, “Environmental groups say they hope the new rules will make it more challenging for any company to ever drill for oil in the Arctic National Wildlife Refuge.” However, FWS spokesperson Christine Schuldheisz said the agency “will consider all of its statutory obligations when considering future oil and gas development within the Refuge System.” [Read more.](#)

BLM Cuts Oil and Gas Leasing Acreage – New Mexico. As reported on March 14 by the *Carlsbad Current-Argus*, the Bureau of Land Management (BLM) has cut acreage in a proposed June 2024 auction for oil and gas leases. The BLM “said it proposed leasing four parcels of land in Eddy, five parcels in Lea and two in Chaves counties in the southeast Permian Basin region, combining the New Mexico sale with eight parcels of land in Kansas. The sale offered 760 acres in Eddy County, 480 in Lea County and 359 acres in Chaves County. The BLM initially proposed to lease 18 parcels in New Mexico but removed seven after further analysis, cutting the sale by 3,152 acres.” As reported, “The reduction was also in response to several public comments the BLM received on the nominated parcels, calling for leases to be deferred if they did not appear likely to produce oil and gas, could impact wildlife and cultural resources or contribute to greenhouse gas pollution.” [Read more.](#)

BLM Idaho Resource Advisory Council. On March 5, the Bureau of Land Management (BLM) published a notice of call for nominations to the Idaho Resource Advisory Council ([89 Fed. Reg. 15888](#)). “The RACs provide advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within their geographic areas.” One category of representation the BLM is seeking are those who represent energy and mineral development. Nominations must be received by April 4, 2024, and applicants may self-nominate. [Read more.](#)

Energy Department Announces Funding Opportunities for Carbon Management Priorities. On Feb. 29, the U.S. Department of Energy’s Office

of Fossil Energy and Carbon Management (FECM) “announced up to \$30 million in additional funding to support two carbon management priorities—the conversion of carbon dioxide (CO₂) into environmentally responsible and economically valuable products and the development of lower-cost, highly efficient technologies to capture CO₂ from industrial sources and power plants for permanent storage or conversion. Advancing the development of these technologies will help establish the foundation for a successful carbon capture, storage, and conversion industry in the United States and will help meet the Biden-Harris Administration’s ambitious climate goals of achieving a carbon neutral power sector by 2035 and net-zero greenhouse gas emissions by 2050.” Applicants for the funding opportunity “must address the societal considerations and impacts of their proposed projects, emphasizing diversity, equity, inclusion, and accessibility throughout the research and development process. Applications must explain how projects are expected to deliver equitable access to, and distribution of, benefits produced from successful technology innovations; incorporate diversity, equity, inclusion, and accessibility; and understand the future workforce implications of the innovation. Projects selected under this opportunity will be required to develop and implement strategies to advance these priorities, and report on such activities and outcomes.” The application period is open through April 29, 2024. [Read more.](#)

Interior Department Office of Natural Resources Revenue Agency Information Collection Notice.

On March 12, the Interior Department Office of Natural Resources Revenue (ONRR) published a notice of information collection, *Agency Information Collection Activities; Collection of Monies Due to the Federal Government; and Processing Refund Requests Related to Overpayments Made to ONRR (89 Fed. Reg. 17876)*, that “seeks to revise this collection and receive renewed authority to collect information necessary to cover cross-lease netting in the calculation of late-payment interest; a lessee’s designation of designee for payment obligations; tribal permission for recoupment on Indian oil and gas leases; and refund requests for overpayments made to ONRR.” The public comment period is open through April 11, 2024. [Read more.](#)

SEC Climate Disclosure Rule. On March 6, the U.S. Securities and Exchange Commission (SEC) announced the adoption of an 800+ page climate disclosure rule for public companies, nearly a year later than expected. [Read the SEC Press Release here.](#) The rule, [The Enhancement and Standardization of Climate-Related Disclosures for Investors](#), “will require registrants to provide certain climate related information in their registration statements and annual reports [and] will require information about a registrant’s climate-related risks that have materially impacted, or are reasonably likely to have a material impact on, its business strategy, results of operations, or financial condition.” [Read more.](#) In short, the new rule will “require public companies to provide qualitative disclosure” as well as “qualitative financial statement disclosure” as part of their public filings. Those disclosures cover: “climate-related risks; identification, oversight and management of such risks; the impact of those risks on the business; climate-related targets and goals; data relating to a company’s GHG emissions; and climate-related capitalized costs, expenditures, charges and losses, and impacts on financial statement estimates and assumptions.” [Read an SEC Fact Sheet here.](#) For a deeper dive into the required disclosures, [Read more from law firm Holland & Knight here.](#) One positive outcome is that the SEC removed “Scope 3” emissions disclosures from the final rule. These disclosures were included in the proposed rule but received significant pushback from industry stakeholders. That requirement, had it been included, would have required public companies to also disclose “indirect greenhouse gas (GHG) emissions from upstream and downstream activities” in a company’s supply chain – an onerous and burdensome requirement that would be difficult to attain. Additionally, the final rule has scaled-back governance disclosures. As reported by law firm Morgan Lewis, “In response to concerns raised by commentators, the SEC also scaled back certain corporate governance disclosures and, similar to the recent cybersecurity disclosure rules, emphasized that the climate rules are not intended to mandate a specific corporate governance structure or risk-management methodology. Rather, the final rules focus on the disclosure of a registrant’s existing or developing climate-related risk governance practices. In particular, companies will not

need to identify relevant expertise of board members, the specific board members responsible for climate-related risk, the frequency of reporting climate-related risks to the board, or how the board sets climate-related targets or goals. Registrants will be required to describe whether and how the board oversees progress against disclosed climate-related targets, goals, or transition plans.” [Read more](#). The rule also provides for a lengthy phase-in period depending on a company’s filing status. No disclosure reporting is required prior to 2025. [Read more](#). Legal analysts have also provided companies with a roadmap of how to start preparing now for the rule implementation. [Read more](#). Since the rule was released, attorneys general from 22 states have already filed legal challenges in multiple federal courts asserting that the SEC has exceeded its regulatory authority with this first-ever disclosure rule. Congressional lawmakers have also begun hearings in an effort to overturn the rule at the legislative level. [Read more](#). **BREAKING UPDATE:** On March 15, the U.S. Court of Appeals for the Fifth Circuit paused the SEC rule amid litigation challenging the regulations. As reported by *Bloomberg Government*, Liberty Energy Inc. requested the pause as the company pursues its case in federal court. The Fifth Circuit didn’t explain why it approved the hold in its two-page unpublished opinion.

FEDERAL – Judicial

Interior Department Oil Drilling Approvals – North Dakota. On March 5, the U.S. Court of Appeals for the Eighth Circuit, on appeal from the U.S. District Court for the District of North Dakota, upheld the Bureau of Land Management’s approval of eight applications to drill under Lake Sakakawea in North Dakota, which is the “sole source of drinking water” for the Mandan, Hidatsa, and Arikara Nation Indian tribes and which the tribes challenged. In *Mandan, Hidatsa & Arikara Nation v. U.S. Department of the Interior* (Case No. 22-2459), the court held that the “Bureau of Land Management’s approval of the project wasn’t arbitrary or capricious because it was based on reasoned decision-making.” The case turned on a setback the nations established that was more restrictive than the agency’s requirements. The court, however, held that the Bureau of Land Management did not need to

respect the updated setback law because it was the permit holder’s burden to comply with the applicable regulations. In short, the court wrote that if an agency was required to consider “eleventh hour changes” in tribal laws for projects nearing approval, then the agency action could be delayed indefinitely. [Read more](#).

Severed Estates; Surface Use – Ohio. On Feb. 23, the U.S. District for the Southern District of Ohio (Eastern Division) granted a preliminary injunction in [EOG Resources, Inc. v. Lucky Land Management, LLC](#) (Case No. 2:23-cv-4232), stopping Lucky Land Management, LLC “from interfering with EOG’s reasonable use of the surface in connection with its lease of the severed oil and gas rights underlying approximately 313.20 acres located in Noble County, Ohio.” The case revolves around Lucky Land Management’s acquisition of the surface rights to the property in 2022 and their refusal to allow EOG to access the surface even though the property was subject to an oil and gas lease that gave EOG mineral rights to the property. According to the court, “The question is whether EOG can use its access to the surface of Lucky’s property to recover oil and natural gas from under Lucky’s property as well as from under adjacent properties using horizontal drilling.” Here, “The severance deeds and EOG’s oil and gas lease were silent as to whether the reservation of rights included the right to develop minerals underlying neighboring lands. The district court concluded that the severance deeds and EOG’s lease did not grant EOG an express right to use the surface to develop oil underlying neighboring lands. However, the district court found that EOG had a strong likelihood of success on the merits because EOG’s proposed use of the surface (i) did not exceed what is reasonably necessary for EOG to enjoy its right to the mineral estate and (ii) gives due regard to Lucky Land’s use of the surface. The district court noted that the two horizontal well pads impacted less surface acres than drilling 16 two-acre vertical well pads across the property. The district court also found that EOG’s \$100,000 offer demonstrated further due regard for Lucky Land’s surface rights. Specifically, the district court found that \$100,000 for the disturbance of

approximately 45 acres, most of which would only be temporarily disturbed, was an appropriate payment based on the price per acre that Lucky Land paid to purchase the property.” [Read more.](#)

STATE – Legislative

State Land Leases Renewals – Wyoming. On March 4, Gov. Mark Gordon (R) signed HB 10 into law. Sponsored by the Joint Committee on Agriculture, State and Public Lands and Water Resources, the bill authorizes the Director of the Office of State Lands and Investments to grant state land lessees additional time to renew their leases by 30 days. The Act is effective July 1, 2024. [Read more.](#)

State Land Leases Payments – Wyoming. On March 4, Gov. Mark Gordon (R) signed HB 11 into law. Sponsored by the Joint Committee on Agriculture, State and Public Lands and Water Resources, the bill “specifies that all state land lease renewal applications and rental payments are deemed filed on the date of the postmark stamped on the envelope in which they are mailed. The bill also removes specific types of payment methods that were accepted for rental payments and applications and authorizes the Director of the Office of State Lands and Investments to determine appropriate payment methods.” The Act is effective July 1, 2024. [Read more.](#)

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Available through the AAPLConnect LANDNEWS and Governmental Affairs Network member forums [here](#) or on the AAPL website [here](#).

STATE – Regulatory

New Mexico Environment Department Ground Water Quality Bureau Water Reuse Public Hearing. On March 12, the New Mexico Environment Department Ground Water Quality Bureau announced that the Water Quality Control Commission (WQCC) will hold a public hearing both in-person and virtually on May 13, 2024,

following the WQCC’s scheduled meeting “to consider NMED’s proposed water reuse regulations, *Ground and Surface Water Protection – Supplemental Requirements for Water Reuse (20.6.8 NMAC)*, which include the restricted reuse of treated produced water (water derived from oil and gas activities) for purposes outside of and unrelated to the oil and gas industry. The proposed regulations may be reviewed online at <https://www.env.nm.gov/opf/water-quality-control-commission/>.” The notice also provides information for those wishing to provide technical testimony and for non-technical public comment, with applicable deadline dates prior to the hearing. [Read more.](#)

New Mexico Environment Department Submits Priority Climate Action Plan to the EPA. On March 6, the New Mexico Environment Department (NMED) announced it has submitted a Priority Climate Action Plan (PCAP) to the U.S. Environmental Protection Agency. According to the NMED, “The PCAP is the first required deliverable of Phase 1 of the Climate Pollution Reduction Grant (CPRG), which was awarded to NMED in July of 2023. The PCAP is publicly available on [New Mexico’s Climate Pollution Reduction Grant](#) webpage. The PCAP outlines priority actions the state needs to take in order to cut greenhouse gas emissions, while providing air quality, health, workforce, and economic benefits to the state’s communities. The measures included in the PCAP are not an exhaustive list of climate actions that need to be taken to reach the state’s climate goals, but rather a list of priority actions that fit into the CPRG context and timeline. The plan was developed collaboratively with the Climate Policy Bureau of the Energy, Minerals and Natural Resources Department (EMNRD) and was built on extensive input collected from other state agencies, communities, workforce entities, and Tribes.” [Read more.](#)

Air Quality Bureau Air Permitting Fees – New Mexico. On March 7, 2024, the Air Quality Bureau (aqb) of the New Mexico Environment Department (NMED) [petitioned the Environmental Improvement Board](#) “to repeal and replace 20.2.71 NMAC, *Operating Permit Fees* (Part 71), and 20.2.75 NMAC, *Construction Permit Fees* (Part 75), to increase air permit fees to cover the costs of administering and implementing the

requirements of the New Mexico Air Quality Control Act and federal Clean Air Act. AQB will hold a [virtual stakeholder engagement meeting](#) on Wednesday, March 20 from 4:00 – 6:00 p.m. The proposed revisions to both regulations will be discussed in detail and there will be time for questions from the public. The full text of the Bureau's proposed amendments to Part 71 and 75 and related documents are available for download on the [Environmental Improvement Board's Docketed Matters webpage](#) or in hard copy at the Bureau's main office, 525 Camino de los Marquez, Santa Fe, New Mexico, 87505." According to the NMED, the agency "has experienced an unprecedented increase in the number and complexity of air quality permit applications. At the same time, assuring compliance with state and federal air quality standards has also expanded significantly in the past 20 years. For example, the number of permitted oil and gas industry facilities has grown by over 2,235% from 34 permits in 2012 to 794 permits in 2023. On average, New Mexico receives 84 new oil and gas construction permit applications annually. During this period, NMED's permit fees remained constant and staffing levels remained flat." According to Environmental Protection Division Director Michelle Miano, "These fee structure updates provide the resources we need to serve applicants effectively and provide a level playing field for businesses throughout the state." As far as the timeline, "NMED has requested the EIB consider the Air Quality Bureau's petition on March 22, 2024, with the request for a hearing in June 2024. Once the EIB agrees to hear the petition, NMED will launch the Public Comment Portal to receive written public comments on the petition that will continue through the conclusion of the EIB hearing." [Read more.](#)

Gov. Shapiro Announces Energy Plan to Include Cap-and-Invest and Renewable Energy for Utilities – Pennsylvania. On March 13, Pennsylvania Gov. Josh Shapiro (D) announced a state energy plan that includes cap-and-invest markets and a push for utilities to use renewable energy. [Read the governor's announcement here.](#) The governor said his plan will "protect and create nearly 15,000 energy jobs, lower utility bills for Pennsylvania households, and take real action to address carbon pollution. If passed by the legislature,

the Governor's initiatives would save Pennsylvania ratepayers \$252 million in the first five years, while generating \$5.1 billion in investment in clean, reliable energy sources." As part of the plan, "the Governor is proposing the Pennsylvania Climate Emissions Reduction Act (PACER) to establish a Pennsylvania-specific cap-and-invest program that allows Pennsylvania to determine its own cap on carbon and invest directly in lowering consumers' electricity bills." The PACER program would take the state out of the Regional Greenhouse Gas Initiative and "give the Commonwealth control over its own energy future." The plan also introduces the program, "the Pennsylvania Reliable Energy Sustainability Standard (PRESS), which will attract federal investments in the Commonwealth and keep utility costs low in the long-term by building out the reliable, affordable fleet of power sources we will need for the decades to come." Finally, "Governor Shapiro's plan also recognizes the critical importance of carbon capture, utilization, and storage (CCUS) in meeting our emissions reductions goals, and he is urging the General Assembly to pass enabling legislation to create a legal and regulatory framework for CCUS in Pennsylvania. This will help our state reduce emissions from the largest industrial sources and create good-paying, clean energy jobs in the process." [Read more.](#)

STATE – Judicial

State Regulation of Oil Operations – California. On March 1, the California Court of Appeal, Fifth Appellate District, on appeal from the Superior Court of Kern County, ruled that the California Geologic Energy Management Division (CalGEM) lawfully issued regulations meant to protect drinking water from damage caused by oil operations that required oil operations to stop in the event of "nearby surface expression." In *TRC Operating Co. v. Shabazian* (Case No. F085832), TRC challenged CalGEM's "directives requiring oil operators to stop drilling and injecting in areas where there could be a surface expression—an occurrence where fluids and gases from underground unintentionally flow to the surface." The case turned on an administrative appeal which parties claimed were "thwarted" and they never

received authorization to resume operations. TRC was successful at the trial level, but here, the court found a regulatory notice wasn't appealable until enforced. The court also found CalGEM's regulations were consistent with the overall statutory scheme of the state code. However, the case is still active because it was been sent back to the trial court as a determination was never made as to whether CalGEM's notice to cease operations was "arbitrary and capricious." [Read more.](#)

Leasing; Production Sharing Agreement; Surface Use – Texas. On Feb. 8, in [Hamilton v. ConocoPhillips Co.](#) (Case No. 13-22-00096-CV), the Texas Court of Appeal, Thirteenth District (Corpus Christi), "affirmed a trial court order dismissing a landowner's claims that an oil and gas producer breached its lease agreement and trespassed on the owner's property when it sited a pad for a horizontal well." The landowner had also challenged the validity of a surface use agreement that he had not signed. The court disagreed, holding that it "already determined that the production sharing agreement grants appellees the easement for the project and obviates the need for further consent. As such, we need not reach the merits of appellant's argument as to the validity of the surface use agreement." The court also dismissed a trespass claim by again relying on the production sharing agreement. [Read more.](#)

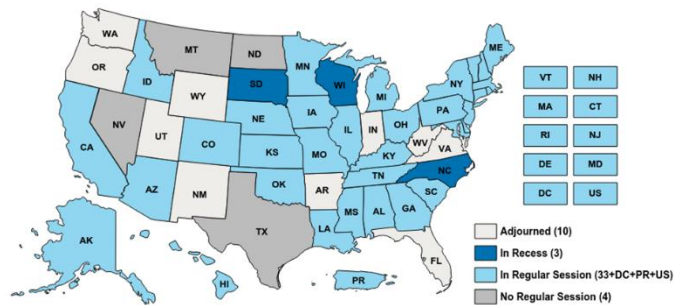
INDUSTRY NEWS FLASH

► **New poll shows majority of Pennsylvania voters oppose Biden administration LNG export ban.** As reported by *Marcellus Drilling News* on March 5, a new poll released by Axis Research and the Pennsylvania Energy Infrastructure Alliance shows 58% of Pennsylvania voters disagree with Joe Biden's pause on approving new LNG export permits. And 57% of poll respondents were Democrats and independents. Additionally, "After learning more about Biden's LNG pause, 41% of those surveyed said they were less likely to vote for Biden because of his LNG pause." [Read more.](#)

► **OPEC+ members extend oil output cuts through June.** As reported on March 4 by the *Oil & Gas Journal*, "Several OPEC+ members, led by Saudi Arabia and Russia, will extend voluntary oil output cuts of 2.2 million b/d into second-quarter 2024, providing the market with a boost amid concerns about global economic growth and rising production outside the group." [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, and Tennessee are in regular session. The U.S. Congress is also in session.

South Dakota is in recess until March 25. **North Carolina** is in recess until April 10.

The following states adjourned the 2024 legislative session on the dates provided: **Indiana** and **Wyoming** (March 8), **Virginia** and **West Virginia** (March 9).

Arkansas is expected to convene for the 2024 legislative session on April 10.

The following states are expected to convene for the 2024 legislative session on the dates provided: **Idaho** (March 22), **South Dakota** (March 25), and **Georgia** (March 28).

Signing Deadlines (by date): **Utah** Republican Gov. Spencer Cox has until March 21 to act on legislation or it becomes law without signature. **Indiana** Republican Gov. Eric Holcomb has until March 22 to act on legislation or it becomes law without signature. **Wyoming** Republican Gov. Mark Gordon has until March 23 to act on legislation or it becomes law without signature. **West Virginia** Republican Gov. Jim Justice has until March 27 to act on legislation or it becomes law without signature. **Virginia** Republican Gov. Glenn Youngkin has until April 8 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.

The following states are currently holding interim committee hearings or studies: [Arkansas](#), [Montana](#), [Nevada](#), [North Dakota](#) and [Texas House](#).

The following state is currently posting 2024 bill drafts and pre-files: [Nevada](#). ■

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