

GOVERNMENTAL AFFAIRS REPORT

FEDERAL – Legislative

S. 2820 – Congressional Oversight of the Antiquities Act. On September 14, [S. 2820](#), known as the Congressional Oversight of the Antiquities Act, was introduced by Sen. Mike Lee (R-UT). The bill would reform the Antiquities Act “to ensure more transparent and accountable designations of national monuments.” Sen. Lee said, “Since its inception, the Antiquities Act has been a tool to protect archaeological resources on public lands. Over the years, however, there have been instances where the Act’s broad language has been used to unilaterally designate vast amounts of public land as national monuments without sufficient public input or Congressional oversight.” Further, “The bill highlights instances like the designation of the Grand-Staircase-Escalante National Monument under President Clinton and the Bears Ears National Monument under President Obama. Both monuments cover millions of acres. Most recently, President Biden’s establishment of a 917,600-acre monument in northern Arizona further underscores the necessity for reform.” House companion bill, [H.R. 5499](#), was introduced on September 14 by Rep. Mariannette Miller-Meeks (R-IA). [Read more.](#)

H.R. 5509 – Electronic Permitting Modernization Act. On September 14, [H.R. 5509](#), known as the Electronic Permitting Modernization Act, was introduced by Rep. Katie Porter (D-CA). The bill would “streamline the Department of Interior’s permitting process. Permission to use federal lands for various activities would be easier to acquire under the bipartisan bill, which establishes a centralized location to access each type of permit.” According to Rep. Porter, “The Electronic Permitting Modernization Act would push the Department of Interior into the 21st century by encouraging the development of electronic

permits that are easily accessible. It would require the Department of Interior to centralize these permits onto one webpage and provide resources to help individuals get assistance with permitting questions. The bill establishes reporting mechanisms to help Congress hold the Department accountable for its e-permitting implementation.” [Read more.](#)

H.R. 5482 – Energy Poverty Prevention and Accountability Act of 2023. On September 26, official bill text was made available for [H.R. 5482](#), known as the Energy Poverty Prevention and Accountability Act of 2023. Sponsored by Rep. Harriet Hageman (R-WY), the bill “would force the Biden Administration to be transparent in providing realistic economic impacts of anti-energy policies.” According to Rep. Hageman, the bill “requires reviews of existing energy laws and regulations to determine if they are adversely impacting energy prices, and establishes metrics to ensure future laws and regulations do not inflict energy poverty on at risk communities. This legislation responds directly to President Biden’s targeting of resource producing states like Wyoming at the expense of all Americans who benefit from reliable and affordable energy.” Senate companion version, [S. 2826](#), was introduced the same day by Sen. Dan Sullivan (R-AK). [Read more.](#)

H.R. 5457 – Carbon Dioxide Removal Research and Development Act of 2023. On September 14, [H.R. 5457](#), known as the Carbon Dioxide Removal Research and Development Act of 2023, was introduced by Rep. Paul Tonko (D-NY). According to Rep. Tonko, “The bill responds to the realities of climate change and follows the recommendations of the scientific community to implement a federal plan to develop carbon dioxide removal (CDR) technologies.” Specifically, the bill “launches a 10-year, multi-agency

program for carbon dioxide research, development & demonstration; incorporates diverse and innovative technologies, including direct air capture, biological carbon removal, and ocean-based carbon removal; establishes and funds a robust research program at the National Science Foundation to ensure that developments in carbon dioxide removal are guided by the best available science and data; [and] prioritizes holistic social, economic, and environmental considerations to minimize risk and maximize co-benefits to ecosystems and communities.” The Senate companion version, [S. 2812](#), was introduced by Sen. Brian Schatz (D-HI). [Read more.](#)

S.J. Res. 9 – Lesser Prairie-Chicken Joint Resolution of Disapproval. (*Update to 3/6/23 Report*) On September 26, President Biden vetoed [S.J. Res. 9](#), a joint resolution of Congress that “would prevent the lesser prairie-chicken from receiving protected status under the Endangered Species Act.” [Read the veto message here.](#) The resolution, for which Congress failed to override the President’s veto, would have nullified the U.S. Fish and Wildlife Service rulemaking finalized on November 22, 2022, which determined threatened status for the Northern distinct population segments (DPS) and endangered status for the Southern DPS and “adds the DPSs to the List of Endangered and Threatened Wildlife.” (See [87 Fed. Reg. 72674](#)) According to the resolution sponsor, Sen. Roger Marshall (R-KS), “Placing the lesser prairie-chicken on the endangered species list should not be happening in the first place. Farmers, ranchers, and others in Kansas and the region have been instrumental in the recovery of the species to this point while the climate activists demanding this rule have no understanding of the threat it poses to Kansas’s economy, especially the energy and ag industries.” [Read more.](#)

Congressional Letter on Carbon Capture Utilization and Sequestration and Hydrogen Technology. On September 21, U.S. Representatives Jared Huffman (D-CA) and Sean Casten (D-IL) delivered a letter to President Biden regarding carbon capture utilization and sequestration and hydrogen technology. The congressmen wrote, “While we have

a range of views regarding carbon capture utilization and sequestration (CCUS) and hydrogen technology, we agree that infrastructure for these technologies should be deployed only with the highest environmental safeguards and would urge strongly against advancing deployment of these technologies without a safe and protective regulatory framework.” The letter writers ask for responses to a number of questions “regarding the work of the many agencies engaged with respect to CCUS and hydrogen technology and infrastructure.” [Read more.](#)

Federal Onshore Oil and Gas Program House Natural Resources Committee Hearing. On September 19, the House Committee on Natural Resources, Subcommittee on Energy and Mineral Resources, held an oversight hearing titled, *Examining the Biden Administration’s Mismanagement of the Federal Onshore Oil and Gas Program*. Witnesses included the Wyoming County Commissioners Association, Western Organization of Resource Councils, and Kathleen Sgamma, President of the Western Energy Alliance. To access a full video recording of the hearing and witness testimony, [Read more.](#)

[FEDERAL – Regulatory](#)

BLM Land Withdrawal – New Mexico. On September 18, the Interior Department “announced a proposal by the Bureau of Land Management (BLM) to protect more than 4,000 acres within the Placitas area in Sandoval County, New Mexico, to safeguard sacred Tribal lands, boost important local recreation opportunities, and support wildlife habitat connectivity. The proposed mineral withdrawal would prevent new mining claims and oil and gas development in the area for a 50-year period, subject to valid and existing rights.” [Read the announcement here.](#) (See also: [Notice of Proposed Withdrawal and Public Meeting, New Mexico](#); [88 Fed. Reg. 64924](#)). The public comment period is open through December 19, 2023. The BLM also announced a public meeting for the proposal to be held November 14, 2023 in New Mexico. [Read more.](#)

BLM Oil Shale Management Agency Information Collection Activities. On September 12, the BLM published a notice of information collection, *Agency Information Collection Activities; Oil Shale Management* ([88 Fed. Reg. 62592](#)). The notice is regarding a BLM renewal of information collection activities that “applies to the exploration, development, and utilization of oil shale resources on the BLM-managed public lands.” The public comment period is open through November 13, 2023. [Read more.](#)

BLM Draft Resource Management Plan and Environmental Impact Statement – California. On September 29, the BLM published a *Notice of Availability of the Draft Resource Management Plan and Environmental Impact Statement for the Redding and Arcata Field Offices and an Associated Environmental Impact Statement, California* ([88 Fed. Reg. 67344](#)). The notice announces that the BLM “has prepared a Northwest California Integrated Draft Resource Management Plan and Draft Environmental Impact Statement (Draft RMP/EIS) for the Redding Field Office and Arcata Field Office. By this notice, the BLM is providing information announcing the opening of the comment period on the Draft RMP/EIS and is announcing the comment period on the BLM’s proposed areas of critical environmental concern.” The planning area for this notice “is in Mendocino, Humboldt, Del Norte, Siskiyou, Trinity, Shasta, Tehama, and Butte counties, California, and encompasses approximately 382,200 acres of public land and approximately 295,100 subsurface acres of Federal mineral estate.” The notice opens a 90-day public comment period. [Read more.](#)

BLM Resource Advisory Council Meeting – Colorado. On September 29, the BLM announced that the Rocky Mountain Resource Advisory Council will hold its 2023 fall meeting on November 9, 2023 at the BLM’s Royal Gorge Field Office with a virtual participation option also available to the public. [Read more.](#)

BLM Minerals Management: Adjustment of Cost Recovery Fees. On September 28, the BLM published a final rule, *Minerals Management: Adjustment of Cost*

Recovery Fees ([88 Fed. Reg. 66695](#)), that “updates the fees set forth in the Department of the Interior’s onshore mineral resources regulations for the processing of certain minerals program-related actions. It also adjusts certain filing fees for minerals-related documents. These updated fees include those for actions such as lease renewals, mineral patent adjudications, and Applications for Permits to Drill (APDs).” [Read more.](#)

BLM Land Management – Wyoming. On September 12, the BLM published a proposed “supplementary rule to protect natural resources and provide for public health and safety. The proposed supplementary rule would apply to all public lands and BLM facilities in Wyoming.” (See [Notice of Proposed Supplementary Rule for Public Lands in Wyoming](#); [88 Fed. Reg. 62500](#)). The supplementary rule mainly regards certain behaviors and acts on Wyoming federal lands and does not alter the existing resource management plans related to oil and gas leasing. The public comment period is open through November 13, 2023. [Read more.](#)

Energy Department Hydrogen Funding. On September 20, the U.S. Department of Energy (DOE) announced “\$47.7 million in funding for 16 research, development, and demonstration (RD&D) projects across 13 states to advance clean hydrogen technologies. The selected projects aim to lower technology costs, enhance hydrogen infrastructure, and improve the performance of hydrogen fuel cells—supporting DOE’s efforts to reduce costs and enable commercial-scale deployment of clean hydrogen, which is a versatile energy resource that can be produced with zero or near-zero emissions.” U.S. Energy Secretary Jennifer M. Granholm said, “Today’s announcement will help accelerate DOE’s efforts to advance clean hydrogen, providing the nation another exciting tool to clean up some of our most energy-intensive sectors while revitalizing American manufacturing for decades to come.” [Read more.](#)

ONRR Notice of Information Collection. On September 26, the Interior Department’s Office of Natural Resources Revenue (ONRR) published a notice of information collection, *Agency Information Collection Activities: Outer Continental Shelf (OCS) Net Profit*

Share Payment ([88 Fed. Reg. 66049](#)), that is proposing to renew an information collection for “renewed authority to collect information necessary to determine net profit share payments due the United States pursuant to Outer Continental Shelf oil and gas leases.” According to the notice, “ONRR collects information necessary to receive and verify net profit share payments due the United States pursuant to Outer Continental Shelf oil and gas leases. The requirement to accurately and timely maintain and provide this information is mandatory.” The public comment period is open through October 26, 2023. [Read more.](#)

U.S. Department of Labor Overtime Pay Rule.

On September 18, the U.S. Department of Labor announced it “is updating and revising the regulations issued under the Fair Labor Standards Act implementing the exemptions from minimum wage and overtime pay requirements for executive, administrative, professional, outside sales, and computer employees. Significant proposed revisions include increasing the standard salary level to the 35th percentile of weekly earnings of full-time salaried workers in the lowest-wage Census Region (currently the South)—\$1,059 per week (\$55,068 annually for a full-year worker)—and increasing the highly compensated employee total annual compensation threshold to the annualized weekly earnings of the 85th percentile of full-time salaried workers nationally (\$143,988). The Department is also proposing to add to the regulations an automatic updating mechanism that would allow for the timely and efficient updating of all the earnings thresholds.” (See [Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees](#); 88 Fed. Reg. 62152). The public comment period for this notice of proposed rulemaking is open through November 7, 2023. As noted by Steptoe & Johnson, “Although the proposed rule has not yet gone into effect, employers should reevaluate the compensation structure for their employees with an eye on the new proposed salary threshold for overtime.” [Read more.](#)

White House Guidance on Social Cost of Greenhouse Gases. On September 21, The Biden White House announced it is directing federal agencies

to consider the Social Cost of Greenhouse Gases (SC-GHG) in the development and implementation of their budgets, in their procurement processes, and in environmental reviews conducted pursuant to the National Environmental Policy Act as appropriate. According to the White House, by taking this action, “the Biden-Harris Administration is announcing another key step to catalyze further action across the federal government and protect people from the growing impacts of the climate crisis by accounting for climate change impacts in certain key agency decisions.” [Read more.](#)

White House Launches American Climate Corps.

On September 21, the Biden administration launched the American Climate Corps, “a workforce training and service initiative that will ensure more young people have access to the skills-based training necessary for good-paying careers in the clean energy and climate resilience economy.” According to the White House, the American Climate Corps “will mobilize a new, diverse generation of more than 20,000 Americans – putting them to work conserving and restoring our lands and waters, bolstering community resilience, deploying clean energy, implementing energy efficient technologies, and advancing environmental justice, all while creating pathways to high-quality, good-paying clean energy and climate resilience jobs in the public and private sectors after they complete their paid training program.” [Read more.](#)

FEDERAL – Judicial

ESG Climate and Environmental Factors

Department of Labor Rule. On September 21, a federal judge appointed by President Trump sided with the Biden administration’s Department of Labor “on an administration rule that would allow retirement advisers to include climate and environmental factors in their calculations.” In his ruling in [State of Utah v. Walsh](#) (Case No. 2:23-cv-00016-Z), Judge Matthew Kacsmaryk of the Northern District of Texas, “granted the administration’s petition to dismiss a lawsuit by 25 Republican state attorneys general, led by Texas’s Ken Paxton and Utah’s Sean Reyes.” As reported by *The Hill*, “Kacsmaryk’s 14-page ruling

rejects the red states' argument that the environmental and sustainable governance (ESG) rule violates the Administrative Procedure Act and the Employment Retirement Income Security Act, which regulates retirement plans. He wrote that the Biden administration rule still complies with those statutes, because it prioritizes financial considerations over environmental ones and thus has no 'overarching regulatory bias in favor of ESG strategies.'"

[Read more.](#)

Federal Offshore Oil and Gas Lease. In a victory for the oil and gas industry, on September 21, the U.S. District Court for the Western District of Louisiana issued a preliminary injunction against the Biden administration "requiring the Interior Department to go ahead with its impending Gulf of Mexico oil and gas lease sale without the restrictions on acreage and ship movements that were added just a month before the planned sale." In [State of Louisiana v. Haaland](#) (Case No. 2:23-cv-01157-JDC-KK), plaintiffs who are the State of Louisiana, American Petroleum Institute, and Chevron USA Inc., and Shell Offshore Inc. "seek to halt the addition of a term to Lease Sale 261 by the Bureau of Ocean Energy Management and the withdrawal of six million acres from that sale." The Interior Department sought to add restrictions on acreage and ship movements "that were added just a month before the planned sale." In short, this "eleventh hour" move by the Interior Department would pull roughly 6 million acres off the auction block which Louisiana argued could cost the state as much as \$2.2 million in lost royalties. Here, the court "found that an injunction was warranted because the industry plaintiffs were likely to succeed at trial in their charges that BOEM violated the Outer Continental Shelf Lands Act (OCSLA) and the Administrative Procedure Act in the way BOEM tacked on acreage restrictions and ship restrictions without adequate justification in terms of legal and regulatory procedure and without adequate opportunity for public comment. The extra restrictions were announced to protect Rice's whales, an endangered species only known to live in the northeastern Gulf of Mexico in an area where no oil and gas leasing occurs. BOEM in January concluded that the restrictions in place to protect whales

appeared sufficient, 7 months before announcing new restrictions." The court wrote, "The process followed here looks more like a weaponization of the Endangered Species Act than the collaborative, reasoned approach prescribed by the applicable laws and regulations. Even when an agency's decision is based on political considerations, it is not excused from justifying the position—particularly when the decision is a pivot from a prior policy." In response to the ruling, the Interior Department filed a notice on September 22 that it would appeal the preliminary injunction to the U.S. Court of Appeals for the Fifth Circuit. On September 26, [that court ruled against the Biden administration and environmental activists](#) by leaving the lower court order in place and specifically ordered that the offshore sale take place no later than November 8, 2023. [Read more.](#)

STATE – Legislative

Local Taxation – California. On September 20, Democrat-sponsored measure, ACA-1, was enacted by the legislature without the governor's signature. "This constitutional amendment, subject to voter approval, allows a city, county, or special district, with 55% voter approval, to incur bonded indebtedness or impose specified special taxes to fund projects for affordable housing, permanent supportive housing, or public infrastructure, as specified." As no effective date was provided, the law takes effect on January 1, 2024 under California law. [Read more.](#)

Taxation – Michigan. On September 14, HB 5008 was introduced by Rep. Nate Shannon (D). The bill amends existing tax law to provide that "To the extent deducted in arriving at federal taxable income, add any specified outsourcing expenses. For purposes of this subdivision: (i) 'Eligible expenses' means any trade or business expenses that the taxpayer is allowed to claim as a deduction under section 162 of the internal revenue code and any permit and license fees, lease brokerage fees, equipment installation costs, and any other similar expenses.(ii) 'Specified outsourcing expenses' means any eligible expenses paid or incurred by the taxpayer and attributable to the elimination of any trade or business of the taxpayer

that was located in this state and any eligible expenses paid or incurred by the taxpayer and attributable to the relocation of any trade or business of the taxpayer that was previously located in this state and subsequently reestablished outside of this state.” [Read more.](#)

STATE – Regulatory

Environmental Justice Policy – Pennsylvania.

On September 16, the Pennsylvania Department of Environmental Protection (DEP) adopted an interim final [Environmental Justice Policy](#). According to the DEP, “The purpose of the policy is to facilitate environmental justice in communities across the Commonwealth of Pennsylvania and to ensure equity and environmental justice in the administration of DEP’s constitution, statutory, and regulatory duties.” There is a formal public comment period open until October 29, 2023. The DEP will also hold a number of public meetings throughout October. [Read more.](#) According to law firm K&L Gates, the interim policy “will materially impact how and when major environmental permits are issued in Pennsylvania and also impact enforcement of environmental laws in EJ areas.” Further, “The Interim Final EJ Policy is a significant modification and expansion of the Department’s prior EJ policy, effective since 2004, with respect to (1) the indicators considered in determining whether a permit application will trigger review under the policy, and (2) in the amount of discretion provided to the Department during the permitting process and, separately, during an enforcement action brought by DEP involving an EJ area.” [Read more.](#)

RRC Commissioner Christian Opposes Proposed Endangered Species Designation – Texas.

On September 28, Texas Railroad Commissioner Wayne Christian sent a letter to the Biden Administration’s U.S. Fish and Wildlife Service (USFWS) director opposing the USFWS pending rule which would designate the Dune Sagebrush Lizard as an endangered species under the Endangered Species Act (ESA). (See [Endangered and Threatened Wildlife and Plants: Endangered Species Status for the Dunes Sagebrush Lizard](#); 88 Fed. Reg. 42661).

According to Christian, this classification will specifically impact hydrocarbon exploration and production in West Texas since the lizard species habitat is specifically found in the Permian Basin region. In the letter, Commissioner Christian detailed “concerns that this unnecessary action could severely stifle Texas oil and natural gas operations, weaken American energy independence, and jeopardize U.S. national security.” Christian said, “Texas must fight the Biden Administration on this most recent ‘weaponization’ of the ESA trying to shut down oil and gas operations in the Permian Basin.” [Read the letter here.](#)

RRC Energy Conservation Programs and Gas Utility Service Rulemaking – Texas. On September 19, the Texas Railroad Commission (RRC) released a proposed new update to [16 Texas Administrative Code §7.480](#), relating to Energy Conservation Programs, and [proposed amendments](#) to [§7.460](#), relating to Suspension of Gas Utility Service Disconnection During an Extreme Weather Emergency. Per the RRC, “Staff proposes the new rule pursuant to [House Bill 2263](#), 88th Legislative Session (2023) which added new Subchapter J, Natural Gas Energy Conservation Programs, in Chapter 104, Texas Utilities Code. The amendments to §7.460 are proposed pursuant to Texas Utilities Code §105.023, which requires the Commission to adopt a classification table to guide courts in issuing civil penalties against gas utilities who disconnect service to residential customers during an extreme weather emergency.” The public comment period is open through October 25, 2023. [Read more.](#)

STATE – Judicial

Bona Fide Purchaser Status; Mineral Rights – New Mexico. In a recent case, *Premier Oil & Gas, Inc. v. Welch* (Case No. 2023-NMSC-017), the New Mexico Supreme Court addressed a situation in which the Court of Appeals “held that an heirship judgment that conveyed mineral rights to a good faith buyer’s predecessor in interest was void for lack of jurisdiction.” Here, the “issue presented for the New Mexico Supreme Court was whether the buyer was

entitled to rely on the void judgment in its claim of bona fide purchaser status.” Relying on case precedent, the Supreme Court “concluded that a party who purchases property sold under a judgment that is not void on its face is entitled to bona fide purchaser status.” The court “further clarified that extrinsic evidence of lack of jurisdiction was not permitted to overcome the rights of a purchaser who properly relied upon the order of the court as ‘an authority emanating from a competent source.’” Thus, here, the court held that Premier Oil & Gas, Inc. “was a bona fide purchaser” and affirmed the Court of Appeals decision. [Read more.](#)

NPRI Floating Royalty Interests – Texas. In a recent case, *Johnson v. Clifton* (Case No. 08-22-00132-CV), parties filed an appeal to a trial court order in which a Reeves County, Texas court “interpreted a 1951 deed as conveying a fixed 1/128th royalty interest to the grantees.” The successors-in-interest to the grantees contended that “the trial court erred and should have instead interpreted the deed to convey a floating 1/16th royalty interest to the grantees. On cross-appeal, certain Appellees contend that the trial court correctly interpreted the deed, while others contend that the deed conveyed a 1/128th mineral interest, with a corresponding 1/128th floating royalty interest.” Here, the Texas Court of Appeals (Eighth District) reversed the trial court’s order, finding that “the deed conveyed a non-participating 1/16th mineral interest with a corresponding floating 1/16th royalty interest.” [Read more.](#)

Floating Royalty Interests – Texas. In a recent case, *Permico Royalties, LLC v. Barron Properties Ltd.* (Case No. 08-22-00168-CV), the Texas Court of Appeals (Eighth District) addressed an appeal from a trial court order “granting summary judgment in favor of Barron Properties Ltd., Knackwurst Properties LLC, and E. Don Poage (collectively the Barron Entities), in which the trial court interpreted a 1937 deed as reserving a 1/16th fixed royalty to the original grantors and their heirs and assigns.” The appellants, “Permico Entities Royalties, LLC and Alden Oestreich (collectively the Permico Entities), who are successors-in-interest to the grantors, contend that the

trial court erred and should have instead interpreted the deed as reserving a 1/2 floating royalty interest.” Here, the appellate court reversed “the trial court’s order and render[ed] judgment that the deed reserved a 1/2 floating royalty interest.” [Read more.](#)

INDUSTRY NEWS FLASH

► **Institute for Energy Research Highlights List of Actions Taken by the Biden Administration Against Oil, Gas and Coal.** The Institute for Energy Research (IER), a free-market energy research nonprofit, has been building “a list of actions the Biden administration and Democrats have taken against oil, gas and coal. By November 2022, the list had 125 actions. By April, it had grown to 150. This month, the IER updated the list to 175 actions taken since President Joe Biden took office that have harmed oil, gas and coal industries. [Read more.](#) Alex Stevens, IER Manager of Policy and Communications, told *Cowboy State Daily* that with the 2024 election on the horizon, Biden is waving his anti-fossil fuel credentials. “It’s obvious that the administration, in order to appease parts of its base, is really focused on continuously rolling out more actions that are going to hurt the oil and gas industry.” [Read more.](#)

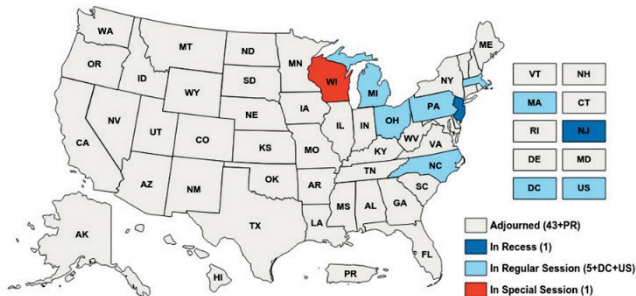
► **Goldman Sachs Rejects Climate Activist Calls to Stop Financing Oil and Gas.** Last week, Goldman Sachs CEO, David Solomon, told attendees at the American Energy Security Summit that this bank refuses to yield to climate activists calling for his company and others to stop financing oil and gas operations. “Traditional energy companies are hugely important to the global economy, they are hugely important to Goldman Sachs,” said Solomon. “We are all going to continue to finance traditional companies for a long time.” [Read more.](#)

► **Texas Upstream Oil and Gas Jobs Rise Again.** Last week, the Texas Oil and Gas Association (TXOGA) reported that the “Texas upstream oil and natural gas industry has added 12,100 jobs in 2023,” referring to newly released data from the Texas Workforce Commission. “In August alone, employment in the sector rose by 1,200 jobs, TXOGA highlighted.”

And since “the COVID-low point of September of 2020, industry has added 51,500 Texas upstream jobs, averaging growth of 1,479 jobs a month, TXOGA pointed out.” [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Michigan, North Carolina, Ohio, Pennsylvania, and Wisconsin are in regular session. The U.S. Congress is also in session. North Carolina is scheduled to adjourn on October 2.

Oklahoma Republican Gov. Kevin Stitt signed an [executive order](#) on September 11 to reconvene the legislature for a special session, beginning October 3, regarding the state’s tax system. Governor Stitt outlined three agenda priorities for the special session which include a tax cut that puts Oklahoma on a path toward zero state income taxes, a measure to increase budget transparency and a trigger law mandating if a court rules an individual exempt from a state tax due to their race, heritage or political classification, then no Oklahoman will be required to pay that tax, reports [KOSU](#).

Texas Republican Gov. Greg Abbott announced that he will be calling for a special session in October. The special session will focus on school choice, with Governor Abbott saying he was “more determined than ever” to pass school choice, which would allow parents to use taxpayer dollars to remove their children from public schools, reports [The Texas Tribune](#). This proposal has faced resistance in the House previously, with both Democrats and rural Republicans blocking it.

Signing Deadlines (by date): **California** Democrat Gov. Gavin Newsom has until October 14 to sign or veto legislation or it becomes law without signature. **Michigan** Democrat Gov. Gretchen Whitmer has 14 days to act on legislation or it becomes law without signature. **Pennsylvania** Democrat Gov. Josh Shapiro has 10 days from presentment to act on legislation or it becomes law without signature.

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

The following states are currently posting 2023 bill drafts, pre-files and interim studies: [Alabama](#), [Delaware](#), [Florida](#), [Georgia](#), [Illinois House](#) and [Senate](#), [Iowa](#), [Nevada](#), [New Hampshire](#), [North Carolina](#), [Oklahoma House](#) and [Senate](#), [Tennessee](#), [Utah](#) and [Wyoming](#). ■

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GOVERNMENTAL AFFAIRS REPORT

FEDERAL – Legislative

S. 2986 – Warding off Hostile Administrative Leasing Efforts Act. On September 28, Sen. Bill Cassidy (R-LA) introduced [S. 2986](#), known as the Warding off Hostile Administrative Leasing Efforts Act or the WHALE Act. The bill would prevent the Biden administration from “issuing maritime rules related to the Rice’s whale that would impede offshore energy development and military activities.” Specifically, the measure “prevents the Secretaries of Commerce and Interior from issuing rules or offshore oil and gas lease requirements or recommendations that establish vessel speed or vessel operational restrictions; requires the Departments to complete a study demonstrating that any mitigation protocols developed to protect Rice’s Whales (RWs) in the Gulf of Mexico will not have a negative impact on supply chains, United States offshore energy production and generation, military activities, including readiness, and United States commercial and recreational fishing or maritime commerce; requires the Secretary of Commerce to develop mitigation protocols that make use of real-time location monitoring and location information; and prohibits mitigation protocols and forbids evening transit or vessel speed or vessel operational restrictions.” [Read more.](#)

S. Res. 386 – National Energy Appreciation Day. On September 29, Sen. Cynthia Lummis (R-WY) introduced Senate Resolution 386 ([S. Res. 386](#)), which designates Oct. 4, 2023 as National Energy Appreciation Day. The purpose of the resolution is “to celebrate the people who work to power the United States and the economy of the United States and to build awareness of the important role that the energy producers of the United States play in reducing poverty, strengthening national security, and improving the quality of life for people around the world.” Sen.

Lummis said, “As this administration continues to put our domestic energy producers on the backburner with its war on American energy, it is essential that we pause to recognize and celebrate their invaluable contributions to our daily lives that we so often take for granted.” House version, [H. Res. 758](#), was introduced by Rep. Jeff Duncan (R-SC). [Read more.](#)

FEDERAL – Regulatory

Interior Department 5-Year Offshore Oil and Gas Leasing Program. On September 29, the Interior Department announced “its next 5-year leasing program for offshore oil and gas with a maximum of three Gulf of Mexico lease sales and no sale for offshore Alaska.” The “Proposed Final Program and Final Programmatic Environmental Impact Statement (EIS) for the 2024–2029 National Outer Continental Shelf Oil and Gas Leasing Program (National OCS Program)” includes “a maximum of three potential oil and gas lease sales – the fewest oil and gas lease sales in history – in the Gulf of Mexico Program Area scheduled in 2025, 2027 and 2029. In compliance with the terms of the IRA, these three proposed lease sales are the minimum number that will enable the Interior Department to continue to expand its offshore wind leasing program through 2030.” [Read the announcement here.](#) As reported by the *Oil & Gas Journal*, the 2024–2029 program “will be a sharp drop from the last 5-year program, which included 11 lease sales.” [Read more.](#) Of the program, Jeffrey Eshelman, President and CEO of the Independent Petroleum Association of America, said, “A plan with only three leases in five years will not only hamper American production but jeopardizes our energy security and will result in hundreds of millions of dollars of lost revenue to coastal states and the federal treasury. The sad truth is that this plan will force the US to get oil from other nations rather than develop American resources by American companies.” For more information on the

Program and corresponding EIS, visit the Bureau of Ocean Energy Management National OCS Oil and Gas Leasing Program [website here](#).

BLM Helium Contracts Rulemaking. On October 3, the Bureau of Land Management (BLM) published a final rule on Helium Contracts ([88 Fed. Reg. 67964](#)). According to the BLM, the Helium Stewardship Act of 2013 required the agency “to sell the Federal Helium System (FHS) and end the Federal Helium In-Kind Program. Accordingly, on September 24, 2021, the BLM declared the FHS as excess to the General Services Administration (GSA), and on September 30, 2022, ceased operation of the Federal Helium In-Kind Program. This final rule removes the Federal Helium In-Kind Program's associated provisions from the BLM's regulations.” For background, the “BLM operates and maintains the FHS, which includes a helium storage reservoir, enrichment plant, pipeline system, and related infrastructure near Amarillo, Texas. The BLM will continue to operate the system until the sale is completed. Crude helium is extracted from the storage reservoir and transported to private helium refineries in Oklahoma and Kansas through the Federal Helium Pipeline.” [Read more](#).

BLM Oil and Gas Lease Sale – Mississippi. On Oct. 6, the BLM Eastern States Office “opened a 30-day public scoping period to receive public input on three oil and gas parcels totaling 90.86 acres that may be included in a March 2024 lease sale in Mississippi.” The public comment period is open through Nov. 6, 2023. [Read more](#).

BLM Geothermal Lease Sale – Nevada. On Sept. 29, the [BLM announced](#) it is offering “45 parcels containing 135,066.930 acres in the State of Nevada for internet based competitive geothermal leasing.” The lease sale will take place on Nov. 14, 2023. As reported by *Bloomberg Government*, “Geothermal development is central to the Interior Department’s renewable energy and climate change agenda because it is abundant on federal land in many Western states. It can be a primary source of electricity for cities that comes without the challenges of other renewables that produce electricity most reliably when it’s sunny and windy.” For more

information about the lease sale and bidding access, [Read more](#).

BLM Oil and Gas Lease Sale – Nevada. On Oct. 6, the BLM “announced an oil and gas lease sale scheduled for Dec. 5, 2023, to offer four oil and gas parcels totaling 3,498.342 acres in Nevada.” For background, “The BLM completed scoping on these parcels in June 2023 and held a public comment period in September 2023 on the parcels, potential deferrals, and the related environmental analysis.” A 30-day public protest period is currently open through Nov. 6, 2023. [Read more](#).

BLM Alaska Resource Advisory Council Meeting. On Oct. 13, the BLM announced that the Alaska Resource Advisory Council (RAC) will “hold a hybrid public meeting, offering in-person and virtual attendance options” on Nov. 29, 2023. Agenda topics for the RAC meeting include “a briefing on land use planning projects, Areas of Critical Environmental Concern, regulatory updates, [and] land transfers.” [Read more](#).

BLM Northern California Resource Advisory Council Meeting. On Oct. 3, the BLM announced that the Northern California District Resource Advisory Council (RAC) will meet on Oct. 25 and Oct. 26, 2023. The RAC meeting dates will include a field tour and business meeting. A virtual participation option will also be available and RAC meetings are open to the public. For background, the “15-member RAC advises the Secretary of the Interior, through the BLM, concerning the issues relating to land use planning or the management of the public land resources located in northern California and northwest Nevada.” [Read more](#).

BLM Wyoming Resource Advisory Council Meeting. On October 4, the BLM announced that the Wyoming Resource Advisory Council (RAC) will meet on Oct. 18 and Oct. 19, 2023. The RAC meeting dates include a field tour and business meeting. A virtual participation option will also be available and RAC meetings are open to the public. For background, the Wyoming RAC “provides recommendations to the Secretary of the Interior concerning issues relating to

land use planning or the management of the public land resources located within the State of Wyoming.” [Read more.](#)

BLM Sagebrush/Sage-Grouse Investment. On Oct. 11, the BLM announced \$4.5 million in funding from the Inflation Reduction Act “to improve sagebrush habitat on both public and private lands as part of President Biden’s *Investing in America* agenda. The funds will expand on proven success by continuing and expanding a partnership with the Intermountain West Joint Venture for sagebrush conservation and restoration work for an additional five years. The effort will benefit greater sage-grouse, other wildlife species, and the health of BLM-managed public lands.” According to the BLM, “The partnership between the BLM and the Intermountain West Joint Venture will address threats and opportunities in sagebrush ecosystems, focusing on six strategies.” [Read more.](#)

Interior Department Deputy Secretary Resigns. On Oct. 4, Interior Deputy Secretary Tommy Beaudreau, the No. 2 official at the department, announced his resignation. The Interior Department said Beaudreau will leave his position in late October. As reported by *The Hill*, “Beaudreau is a longtime Interior official whose tenure with the department began during the Obama administration. He was confirmed to the No. 2 position in June of 2021. While Haaland has established a reputation as an ally to progressives and environmentalists in her tenure at Interior, Beaudreau is viewed as a more moderate figure and has been criticized by the left wing of the Democratic Party as overly close to the fossil fuel industry.” Beaudreau’s successor has not yet been named. [Read more.](#)

Opposition to National Marine Fisheries Service Proposed Gulf of Mexico Vessel Rulemaking. As a follow up to our prior reporting on recent proposed rulemaking (*Endangered and Threatened Species; Designation of Critical Habitat for the Rice’s Whale*; [88 Fed. Reg. 47453](#)) by the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), and Commerce Department regarding designating critical habitat for the Rice’s whale in the Gulf of Mexico, on Oct. 6, the American

Petroleum Institute (API) released a new study “that outlines the potential consequences of new vessel restrictions on American oil and gas workers in the US Gulf of Mexico.” According to the API, the study “finds that recently proposed restrictions on oil and natural gas vessels operating in the Gulf of Mexico would have a major negative impact on jobs, industry investment, government revenue and oil and natural gas production in the region, to a nearly one-quarter decline – which is more than 500,000 barrels of oil equivalent per day – in energy production in the Gulf of Mexico by 2040 even as demand continues to rise.” [Read more.](#) On Oct. 9, the Texas Railroad Commission also weighed in, submitting comments opposing the proposal and noting, “Restricting energy activity in the Gulf of Mexico will impact the supply of crude oil, petroleum products, and liquified natural gas when there’s no scientific evidence to support a vast habitat that spans from Texas to Florida, as the Service is proposing. Without a solid foundation of scientific, fully peer-reviewed data, and observations, the current proposal raises serious concerns that the Service does not have adequate scientific evidence to base its proposed designation.” [Read more.](#)

FEDERAL – Judicial

Lease Interpretation; Royalties – Texas. In a recent federal case, *H.L. Hawkins, Jr., Inc. v. Capitan Energy, Inc.* (Case No. P:22-CV-00020-DC), the U.S. District Court for the Western District of Texas addressed a dispute which the court described as “a straightforward issue of lease interpretation.” Here, the plaintiffs alleged the lessees “deducted impermissible costs from the gross proceeds used to calculate the royalties owed to Hawkins.” The defendants argued “that they have consistently calculated Hawkins’ royalty payments in line with the lease agreement’s language.” Thus, the court decided “the key questions are what does the lease say, and the language allow?” The court concluded that “if Hawkins wanted the Lease to include an express prohibition against deducting postproduction costs from the price in any contract or oil and gas sale like the parties did [in other cases] it could have done so” but chose not to, thus ruling in favor of the lessees on the lease

interpretation issue. However, the court did rule in favor of the plaintiff regarding the defendants' violation of the Texas Natural Resources Code regarding the requirement that "[t]he proceeds derived from the sale of oil or gas production from an oil or gas well located in this state must be paid to each [lessor] by [lessee] on or before 120 days after the end of the month of first sale of production from the well." Under the Code, "If payments from lessee to lessor are not made within the applicable period, lessee must pay interest on such late payments." The court found there was evidence showing Capitan "failed to pay some amount of royalties owed to Hawkins within the applicable period." [Read more.](#)

STATE – Legislative

Corporate Climate Emissions Disclosure – California. On Oct. 7, Gov. Gavin Newsom (D) signed [SB 253](#) into law. The Climate Corporate Data Accountability Act requires large companies "that operate in California and make more than \$1 billion in annual revenues to report both their direct and indirect emissions. That includes things like emissions from operating a building or store as well as those from activities like employee business travel and transporting their products." [Read a full bill summary here.](#) As reported by AP, the "California Chamber of Commerce, agricultural groups and oil giants that oppose the law say it will create new mandates for companies that don't have the experience or expertise to accurately report their indirect emissions. They also say it is too soon to implement the requirements at a time when the federal government is weighing emissions disclosure rules for public companies." The Act takes effect Jan. 1, 2024. [Read more.](#)

Climate-Related Financial Risk – California. On Oct. 7, Gov. Gavin Newsom (D) signed [SB 261](#) into law. The bill requires "companies that generate more than \$500 million in annual revenue to publish climate-related financial risk reports biennially, beginning in 2026. Failure to comply with SB-261 will result in administrative penalties of up to \$50,000 in a reporting year." [Read a full bill summary here.](#) The Act takes effect Jan. 1, 2024. [Read more.](#)

Orphan Well Bonding Requirements – California.

On Oct. 7, Gov. Gavin Newsom (D) signed [AB 1167](#) into law. The Orphan Well Prevention Act "requires companies purchasing marginally productive oil wells to file with the state a bond or financial assurance sufficient to cover well plugging and site restoration costs." [Read a full bill summary here.](#) The Act takes effect Jan. 1, 2024. In September, the California Independent Petroleum Association delivered a letter ([read the letter here](#)) to Gov. Newsom opposing AB 1167 and asking for a veto, but was unsuccessful. [Read more.](#)

Oil and Gas Regulatory Changes – California. On Oct. 7, Gov. Gavin Newsom (D) signed [AB 631](#) into law. The bill enhances various existing civil and other penalties and imposes new ones, including imprisonment, for violations of the state's oil and gas statutes and regulations; strengthens the Geologic Energy Management Division's enforcement authorities, including the authority to seek injunctive relief, cease and desist certain unlawful activities, deploy state actors to conduct remedial work should an operator fail to comply with an order, refer enforcement actions to local prosecutors, and recoup administrative and enforcement costs. [Read a full bill summary here.](#) The Act takes effect Jan. 1, 2024. [Read more.](#)

Offshore Oil and Gas Development – California.

On Sept. 30, Gov. Gavin Newsom (D) signed SB 704 into law. "This bill authorizes the California Coastal Commission to seek scientific advice on offshore wind, and revise the coastal-dependent industrial use policies in the Coastal Act of 1976 to bar new or expanded oil and gas development and new or expanded refineries or petrochemical facilities from being considered a coastal-dependent industrial use and authorizes their permitting if all applicable Coastal Act provisions are complied with, among other things." Final Assembly amendments "clarify that repair and maintenance of existing oil and gas facilities, refineries and petrochemical facilities remain subject to existing coastal-dependent industrial use requirements; require that low carbon fuel upgrades to refineries remain subject to existing coastal-dependent industrial use

requirements; and make various minor technical and clarifying changes.” The Act takes effect Jan. 1, 2024. [Read more.](#)

City Income Tax Act Expansion – Michigan. On Sept. 27, [SB 507](#) passed the Senate and has been transmitted to the House. Sponsored by Sen. Sarah Anthony (D), the bill amends the City Income Tax Act. Specifically, the bill allows any city that levies a city income tax to enter into agreements with the Department of Treasury to administer, enforce, and collect city income taxes; and modifies city income tax collection procedures. This would include provisions dealing with the ability to impose a lien for unpaid taxes; demand for payments, warrants, levies on property; refusal to surrender property; personal liability; levy on salary and wages; service of a warrant-notice levy; and recording a release of a lien or levy. The bill also allows employers that do not do business in or maintain an establishment in a city that levies a city income tax and has entered into agreement with the Department of Treasury, to voluntarily withhold taxes for employees who reside in that city; amends the assessment dispute time frame. The bill expands penalty for frivolous assessment protests; removes existing provision limiting a city’s authority to impose a lien or to cause a demand for payment to property owned by a person, and wages or other income that is reported on a Federal W-2 or 1099 form. The bill also would remove the ability of a city that enters into agreement with the Department of Treasury to establish an income tax board of review, an income tax board of review process, and the appeal of income tax board review decisions. [Access a full bill summary here.](#)

STATE – Regulatory

Arapahoe County Commissioners Adopt Oil and Gas Regulations – Colorado. On Oct. 10, the Arapahoe County Board of Commissioners “voted to approve several amendments to that county’s Land Development Code. [Read more here.](#) In a unanimous 5-0 vote, county leaders approved requiring all oil and gas operations to: (1) Be located at least one mile (5,280 feet) from existing or planned reservoirs. The

one-mile setback can be reduced to 2,000 feet if the operation is downgradient (lower elevation) than the body of water; (2) Build access roads compliant with current fire code; (3) Build alternative emergency access roads for well pads located in areas with limited in-and-out access; (4) Provide handwashing supplies for workers at oil and gas sites; and (5) Provide additional application information (including project narrative, photo simulations and documentation of floodplain, wetlands and riparian area boundaries).” As reported in local news outlets, a “county spokesperson said the new regulations decided Tuesday night will only apply to new applications, not existing wells in Arapahoe County.” [Read more.](#)

Regional Greenhouse Gas Initiative (RGGI)

Working Group – Pennsylvania. On Sept. 29, Gov. Josh Shapiro (R) released a Regional Greenhouse Gas Initiative (RGGI) Working Group Memorandum to follow up the working group established in April 2023 which charged its members with evaluating the merits of Pennsylvania membership in the RGGI or a proposed alternative. The working group—whose members included environmentalists, energy companies like Shell, and labor unions—split on whether Pennsylvania should cut emissions by participating in the existing multi-state RGGI or via a new approach. At present, there was consensus among the group that “1) reducing greenhouse gas emissions in the Commonwealth is both necessary and inevitable; and that 2) a cap-and-invest carbon regulation for the power sector that generates revenue to support the Commonwealth’s energy transition would be the optimal approach for the Commonwealth to meet the Governor’s charge to benefit the environment by reducing emissions. However, there was not consensus on the preferred specific form of cap-and-invest.” [Read more.](#)

RRC Water/Environmental Protection Waste Management Rulemaking – Texas.

On Oct. 2, the Texas Railroad Commission (RRC) announced, “For the first time in nearly 40 years, the Railroad Commission’s Statewide Rule 8 will undergo a substantial overhaul to better reflect modern waste

management practices and recent advancements in production methods. One of the highest priorities of the Railroad Commission of Texas (Commission) is the protection of groundwater resources. Water protection is a major consideration in many of the Commission's Statewide Rules and is one of the primary purposes of Statewide Rule 8. The revisions proposed by the Commission under Chapter 4 and Statewide Rule 8 reflect the Commission's mission to serve Texas through our stewardship of natural resources and the environment. The proposed changes include streamlining of Statewide Rule 8 into the Commission's existing Chapter 4 regulations concerning environmental protection, updating requirements on the design, construction, operation, monitoring, and closure of waste management units, and improving the Commission's ability to track and collect data with respect to oilfield waste transported throughout Texas. The changes being proposed will provide clear direction to operators and Commission staff that will help protect environmental resources and the public across Texas." [Read more](#). The RRC will also be holding in-person and virtual hearings on Oct. 26 and 27, 2023. The public comment period is open through November 3, 2023. [Access the RRC rulemaking information page here](#).

STATE – Judicial

Top and Bottom Leases – Oklahoma. On Sept. 19, the Oklahoma Supreme Court addressed a dispute where both parties sought equitable relief to adjudicate title based upon two oil and gas leases in *Oil Valley Petroleum, LLC v. Moore* (Case No. 2023 OK 90). In short, "Oil Valley claims its title is based upon a top-lease and a release by a lessee of its interest in a well; and (2) Moore claims his title is based upon the base or bottom lease and production from that same well, with an added allegation of unclean hands by Oil Valley." The plaintiff had originally requested the trial court quiet title, cancel an oil and gas lease, and declare its top-lease to be in force and effect. The district court ruled in favor of Moore. Oil Valley appealed and the Court of Civil Appeals reversed the district court and directed judgment in their favor. Moore appealed to the Oklahoma Supreme Court.

Here, the Oklahoma Supreme Court held: "(1) exhibits presented during summary judgment proceedings were insufficient to show a material fact that a well was commercially profitable for the purpose of the habendum clause of an oil and gas lease; (2) an overriding royalty interest may be extinguished by an extinguishment of the working interest from which it was carved by a lessee's surrender of the lease in substantial compliance with the lease, unless the surrender is the result of fraud or breach of a fiduciary relationship; and (3) prevailing party status for the purpose of an attorney fee is determined by the trial court when not determined on appeal." Accordingly, the Oklahoma Supreme Court vacated the opinion of the Court of Civil Appeals and reversed the order granting Moore partial summary judgment in its favor, and remanded the case back to the trial court for additional proceedings. [Read more](#).

INDUSTRY NEWS FLASH

► **America's Most Productive Oil and Gas Counties are Located in Texas.** On Oct. 6, Texas business publication, El Paso Inc., reported that "The counties that produce the most oil and natural gas in all of America are in the Permian Basin in west Texas and southeastern New Mexico. Four of the top five Texas counties that produced the most crude oil in June were in the Permian Basin: Midland, Martin, Upton, and Howard, according to the latest data from the Texas Railroad Commission. Karnes County, southeast of San Antonio, located in the Eagle Ford Shale, produced the fifth-greatest amount of crude and fourth-greatest amount of natural gas." [Read more](#).

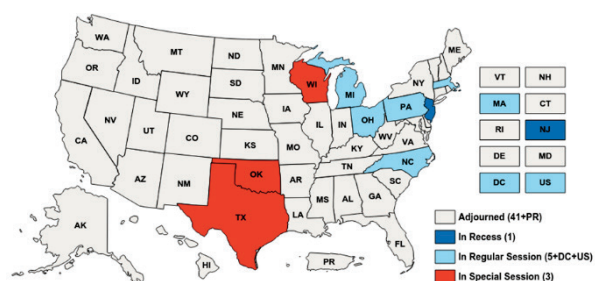
► **ExxonMobil to acquire Pioneer Natural Resources in a \$64.5 billion deal.** Last week, ExxonMobil announced its acquisition of Pioneer Natural Resources in a \$64.5 billion stock deal "that more than doubles the oil and gas major's Permian basin footprint." As reported by the *Oil & Gas Journal*, "The merger, ExxonMobil's largest since acquiring Mobil two decades ago, adds Pioneer's more than 850,000 net acres in Midland basin to ExxonMobil's

570,000 net acres in Delaware and Midland basins, 'creating the industry's leading high-quality undeveloped US unconventional inventory position,' that, together, hold an estimated 16 billion boe resource in the Permian, the companies said in a joint release Oct. 11." In a Bloomberg TV interview discussing the merger, Pioneer's CEO Scott Sheffield forecasted that "independent shale drillers won't be able to survive on their own long term," adding, "They're going to have to merge up, consolidate, and be part of diversified companies." [Read more.](#)

► **White House Prohibiting Administration Officials from Attending International Oil and Gas Events.** On Oct. 2, Fox News reported on an internal Biden administration memo that prohibits "senior administration officials from traveling for international energy engagements that promote carbon-intensive fuels, including oil, natural gas and coal." Authored by Deputy Secretary of Energy David Turk, the memo states that "This guidance sets out a presumption that agencies and departments will pursue international energy engagement that advances clean energy projects. It also outlines a process for seeking limited exceptions to pursue carbon-intensive engagements on a justified geostrategic imperative or energy-for-development/energy access basis." [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Michigan, North Carolina, Ohio, Pennsylvania, and Wisconsin are in regular session. The U.S. Congress is also in session.

Texas Republican Gov. Greg Abbott called the legislature into special session on Oct. 9. The special session is focusing on school choice, which would allow parents to use taxpayer dollars to remove their children from public schools. According to [The Texas Tribune](#), Governor Abbott has threatened to primary any Republicans who block passage of school choice bills, but the proposal has previously faced resistance in the House from Democrats and rural Republicans. For the special session, most eyes will be on the 24 House Republicans who voted for anti-voucher budget amendments during the regular session.

The **Oklahoma** Senate abruptly adjourned their half of the [special session](#) called by Republican Gov. Kevin Stitt regarding the state's tax system on Oct. 3, without taking any action. The Senate's decision followed Governor Stitt's refusal to present before a Senate panel to discuss the sustainability of his tax cut plans and their potential impact on state finances, reports [KFOR](#). The House reconvened for day two of the special session on Oct. 4 and [adjourned](#) until the call of the chair, meaning the House is technically still in special session. The House filed [18 shell bills](#) on Oct. 3 regarding taxation, but they will remain in limbo as the House cannot pass any legislation this special session without the Senate's participation.

Signing Deadlines (by date): **California** Democrat Gov. Gavin Newsom had until Oct. 14 to sign or veto legislation or it becomes law without signature.

Michigan Democrat Gov. Gretchen Whitmer has 14 days to act on legislation or it becomes law without signature. **Pennsylvania** Democrat Gov. Josh Shapiro has 10 days from presentment to act on legislation or it becomes law without signature.

The following states are currently holding 2023 interim committee hearings or studies: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [California Assembly](#), [Colorado](#), [Connecticut](#), [Delaware](#), [Florida House](#) and [Senate](#), [Georgia](#), [Hawaii](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New](#)

[Mexico](#), [New York Assembly](#) and [Senate](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#), [Oregon](#), [Rhode Island](#), [South Carolina House](#) and [Senate](#), [South Dakota](#), [Tennessee](#), [Texas House](#), [Utah](#), [Vermont](#), [Virginia House](#), [Washington](#), [West Virginia](#) and [Wyoming](#).

The following states are currently posting 2023 bill drafts, pre-files and interim studies: [Alabama](#), [Delaware](#), [Florida](#), [Georgia](#), [Illinois House](#) and [Senate](#), [Iowa](#), [Nebraska](#), [Nevada](#), [New Hampshire](#), [North Carolina](#), [Oklahoma House](#) and [Senate](#), [Tennessee](#), [Utah](#) and [Wyoming](#). ■

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GOVERNMENTAL AFFAIRS REPORT

FEDERAL – Legislative

U.S. House of Representatives Elects a New Speaker. On Oct. 25, after weeks of uncertainty following the ouster of previous Speaker Kevin McCarthy (R-CA) earlier this month, [the U.S. House of Representatives elected Rep. Mike Johnson \(R-LA\) as the new Speaker of the House](#). With Rep. Johnson's victory, he will be the first Speaker in U.S. history representing the state of Louisiana. Since his election to the House in 2016, Rep. Johnson has been a staunch advocate for domestic oil and gas production, energy security, and challenging climate policies that threaten the U.S. economy and its citizens. Rep. Johnson was an early opponent of President Biden's cancellation of the Keystone XL pipeline permit and has been a vocal supporter of both offshore and onshore production, benefiting both his home state of Louisiana and the nation. [Read more.](#)

Senate Hearing on U.S. Department of Energy Grantmaking and Loan Programs. On Oct. 19, the Senate Committee on Energy & Natural Resources held a hearing "to examine the Department of Energy's due diligence process for awarding competitive grants and loans funded through the Inflation Reduction Act and the Bipartisan Infrastructure Law and the Department's overall innovation investment strategy." In his opening remarks, Chairman Joe Manchin (D-WV) said, "If implemented effectively, the Bipartisan Infrastructure Law and the Inflation Reduction Act have the power to truly transform our country for the better. That is why it is so important that we get this right." To access a full video recording of the hearing and witness testimony, [Read more.](#)

Senate Hearing to Examine Federal Offshore Energy Strategy and Policies. On Oct. 26, the Senate Committee on Energy & Natural Resources held a

hearing titled, "Full Committee Hearing to Examine Federal Offshore Energy Strategy and Policies," which, according to Chairman Joe Manchin (D-WV), was "to continue our committee's work on improving our nation's energy security through offshore energy production." Sen. Manchin also noted that the Inflation Reduction Act required the Interior Department to hold "significant oil and gas lease sales, both on- and offshore" but "the new [offshore] five-year leasing program falls well short of what we should be doing by including only three oil and gas sales." To access a full video recording of the hearing and witness testimony, which included testimony from government officials, [Read more.](#)

Senate Hearing on Implications of Supreme Court Ruling Limiting EPA Authority over Wetlands. On Oct. 18, the Senate Committee on Environment & Public Works held a hearing titled, "The Implications of Sackett v. US Environmental Protection Agency for Clean Water Act of Wetlands and Streams." The hearing examined the May 2023 U.S. Supreme Court ruling in [Sackett v. Environmental Protection Agency](#) that limited the authority of the EPA to only regulate "wetlands that have a continuous surface connection with 'waters' of the United States — i.e., with a relatively permanent body of water connected to traditional interstate navigable water." That decision upset the existing broader authority exercised by federal agencies, like the EPA, even when not authorized by Congressional mandate. [Read more.](#) To access a full video recording of the hearing and witness testimony, [Read more.](#)

House Natural Resources Committee Hearing on Biden Administration Offshore Leasing Program. On Oct. 18, the House Committee on Natural Resources, Subcommittee on Energy and Mineral Resources, held a hearing titled, "Examining the Biden Administration's Unprecedented Obstruction of the BOEM Offshore Leasing Program." The hearing's key

messages included opposition to the limited number of lease sales in the Gulf of Mexico, and not a single sale in Alaska; the threat to domestic oil and gas production; and the failure to utilize abundant oil and gas resources in the Alaska region. Witnesses included the Louisiana Mid-Continent Oil and Gas Association, a representative for Alaska Governor Mike Dunleavy, and the Director of the Bureau of Ocean Energy Management. To access a full video recording of the hearing and witness testimony, [Read more](#).

Congressional Report on Energy Provisions of the Inflation Reduction Act. This month, Sen. John Barrasso (R-WY), Ranking Member of the U.S. Senate Committee on Energy and Natural Resources, and Rep. Cathy McMorris Rodgers (R-WA), Chair of the U.S. House Committee on Energy and Commerce, released a report titled, “Irresponsible, Reckless, Alarming: IRA Will Make the United States Poorer and China Richer.” The report highlights how the Inflation Reduction Act (IRA) – enacted in 2022 – “is one of the most economically disastrous pieces of legislation ever enacted” and how the “energy and climate provisions of the bill are designed to ‘transition’ America over 10 years from U.S.-produced oil, natural gas, and coal to ‘green’ energy sources that are dependent on government handouts and foreign supply chains. It will weaken the U.S. economy and put American taxpayers further in the red.” Among other topics, the report highlights how the IRA’s oil and gas industry emissions goals are unworkable and will harm the U.S. economy and national security. [Read the report here](#).

FEDERAL – Regulatory

BLM Oil and Gas Lease Sale – North Dakota.

On Oct. 17, the Bureau of Land Management (BLM) Montana-Dakotas State Office “announced an oil and gas lease sale scheduled for Dec. 5, 2023, to offer 12 oil and gas parcels totaling 3,650.81 acres in North Dakota. The BLM completed scoping on these parcels in July 2023 and held a public comment period in August 2023 on the parcels, potential deferrals, and the related environmental analysis.” The 30-day public protest period to receive additional public input and will close Nov. 20, 2023.” [Read more](#).

BLM Oil and Gas Lease Sale – North Dakota.

On Oct. 23, the BLM Montana-Dakotas State Office “opened a 30-day public comment period to receive public input on six oil and gas parcels totaling 2,335 acres that may be included in an upcoming lease sale in North Dakota. The comment period ends Nov. 20, 2023. The BLM completed scoping on these parcels in September 2023 and is now seeking public comment on the parcels, potential deferrals, and the related environmental analysis.” [Read more](#).

BLM Resource Advisory Council Meeting –

Colorado. On Oct. 23, the BLM announced that the Rocky Mountain Resource Advisory Council (RAC) will meet at the BLM’s Royal Gorge Field Office on Nov. 9, 2023. The RAC meeting is open to the public and there is also an option for virtual attendance online. According to the BLM, “The three 15-member Resource Advisory Councils in Colorado are forums for providing advice and recommendations to the BLM on various resource and land management issues. The Rocky Mountain RAC advises the BLM Colorado Rocky Mountain District, including the Royal Gorge and San Luis Valley field offices, and Browns Canyon National Monument.” [Read more](#).

BLM Resource Advisory Council Meeting – Utah.

On Oct. 13, the BLM announced that the “Canyon Country District is scheduled to hold a meeting and field tour with the Utah Resource Advisory Council, Nov. 14 and 15, 2023. The public is invited to attend and gain valuable information regarding District and State planning efforts.” BLM planned agenda items for the meeting dates include updates and overview of District and State planning efforts and a field tour of Bears Ears National Monument. [Read more](#).

BLM Extends Rock Springs RMP Comment Period –

Wyoming. On Oct. 19, the BLM Wyoming State Office announced that at “the request of the state of Wyoming and other stakeholders, the Bureau of Land Management is extending the comment period on the Draft Rock Springs Resource Management Plan, Draft Environmental Impact Statement and proposed Areas of Critical Environmental Concern. The comment period now closes on January 17, 2024. Governor Mark

Gordon requested the extension for Wyomingites to have more time to provide input into the formulation of a final plan.” BLM Director, Tracy Stone-Manning, said, “We are committed to doing that work to finalize the final plan. A lot of work happens between a draft plan and a final plan, and that work is best informed by people who roll up their sleeves to work together.” [Read more.](#)

BLM Oil and Gas Lease Sale – Wyoming. On Oct. 16, the BLM Wyoming State Office “opened a 30-day public scoping period to receive public input on 20 oil and gas parcels totaling 11,250 acres that may be included in a June 2024 lease sale in Wyoming. The comment period ends Nov. 15, 2023.” [Read more.](#)

BLM Carbon Sequestration Project – Wyoming. On Oct. 18, the BLM announced that “Due to a technical issue with our ePlanning site, today the Bureau of Land Management restarted the 30-day public comment period for the proposed Tallgrass Southeast CO2 Sequestration Project. If approved, Tallgrass could store carbon dioxide (CO2) in approximately 480 acres of sub-surface federal pore space in Laramie County. The comment period will now close Dec. 15, 2023.” According to the BLM, the “proposal follows the June 2022 BLM policy update authorizing rights-of-way on public lands for the geologic sequestration of carbon dioxide.” [Read more.](#)

BLM Resource Advisory Councils Call for Nominations. On Oct. 25, the BLM published a *National Call for Nominations for Resource Advisory Councils* ([88 Fed. Reg. 73356](#)) requesting public nominations for 16 of the BLM’s statewide and regional Resource Advisory Councils (RAC) “that have vacant positions or members whose terms are scheduled to expire. These RACs provide advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within the geographic areas for which the RACs are organized.” RAC openings include those in Idaho, Nevada, New Mexico, and Wyoming. One of the nomination categories specifically seeks those members of the public who “represent energy and mineral development.” Interested applicants may self-nominate. Nominations must be received no later than Nov. 24, 2023. [Read more.](#)

BLM Site-Specific Advisory Committees Call for Nominations. On Oct. 25, the BLM published a *National Call for Nominations for Site-Specific Advisory Committees* ([88 Fed. Reg. 73358](#)) requesting public nominations for six of the BLM’s “citizens’ advisory committees affiliated with specific sites on the BLM’s National Conservation Lands. The six advisory committees provide advice and recommendations to the BLM on the development and implementation of management plans in accordance with the statute under which the sites were established.” Two of the committee areas include public lands and/or monuments in New Mexico and Utah. Interested applicants may self-nominate. Nominations must be received no later than Nov. 24, 2023. [Read more.](#)

BLM Renewable Energy Strategy – Idaho. On Oct. 23, the BLM announced it is “Addressing the increase in industry demand for renewable energy projects on BLM-managed public lands in southern Idaho,” and “is making available the [Public Engagement Report](#), which compiles feedback received during four public meetings held in early spring. Based on public response, BLM Idaho has changed how we process renewable energy applications and shared that new policy with the public during the Idaho Renewable Energy Strategy rollout. Under the new policy, BLM Idaho is now requiring companies to gather input locally on proposed projects to understand stakeholders’ concerns before analyzing the project under the National Environmental Policy Act.” According to the BLM, “This report includes feedback on the new process and where the public feels renewable energy might best be located on BLM-managed public lands in southern Idaho. The report will serve as an essential tool for informing applicants about public sentiment concerning potential impacts on BLM-managed public lands to help inform the location and design of future projects.” [Read more.](#)

BLM NPR-A Reduced Leasing Acreage Proposed Rulemaking – Alaska. On Oct. 17, the BLM announced “it is extending the public comment period for the proposed National Petroleum Reserve in Alaska (NPR-A) Rule by 10 days to allow for additional public comment. This brings the time collecting public feedback on the proposed rule to a total of 70 days.” The new

deadline to provide input is Nov. 17, 2023. [Read more.](#) On Oct. 24, the BLM formally published that extension, *Management and Protection of the National Petroleum Reserve in Alaska; Extension of Comment Period* ([88 Fed. Reg. 72985](#)), with information on how to submit comments. [Read more.](#) For background, on Sept. 6, President Biden announced plans to protect about 13 million acres in the NPR-A. (See [Management and Protection of the National Petroleum Reserve in Alaska; 88 Fed. Reg. 62025](#)). The proposal “would prohibit any new leasing in 10.6 million acres, which is more than 40 percent of the reserve,” said Interior Secretary Deb Haaland. [Read more.](#) In response, Sen. John Barrasso (R-WY), ranking member of the Senate Committee on Energy and Natural Resources, said, “President Biden’s war on American energy continues. With the stroke of a pen, his administration is placing more than 40 percent of the National Petroleum Reserve off limits for petroleum production. He is ignoring the law and making us more dependent on foreign oil. Not only is this bad energy policy, it’s bad foreign policy. Today’s decision rewards our adversaries and hurts American families.” [Read more.](#) For further information, access the [BLM NPR-A rulemaking website here](#), which includes numerous planning documents and a proposed rule fact sheet.

Energy Department Hydrogen Hubs. On Oct. 13, the U.S. Department of Energy (DOE) “announced \$7 billion to launch seven Regional Clean Hydrogen Hubs (H2Hubs) across the nation and accelerate the commercial-scale deployment of low-cost, clean hydrogen—a valuable energy product that can be produced with zero or near-zero carbon emissions and is crucial to meeting the President’s climate and energy security goals.” As reported by the DOE, “the seven H2Hubs will kickstart a national network of clean hydrogen producers, consumers, and connective infrastructure while supporting the production, storage, delivery, and end-use of clean hydrogen. The H2Hubs are expected to collectively produce three million metric tons of hydrogen annually, reaching nearly a third of the 2030 U.S. production target and lowering emissions from hard-to-decarbonize industrial sectors that represent 30 percent of total U.S. carbon emissions.” [Read more.](#) President Biden touted the program

announcement during a recent trip to Philadelphia. [Read a White House Fact Sheet here.](#)

Energy Department Announces Oil Purchases to Refill Strategic Petroleum Reserve. On Oct. 19, the U.S. Department of Energy (DOE) announced plans to buy as much as 6 million barrels of crude oil for the Strategic Petroleum Reserve (SPR) in December and January. The DOE said they “will purchase oil in those months where it can do so at a good deal for taxpayers: a price of \$79 dollars per barrel or below, far less than the average \$95 per barrel DOE received for 2022 emergency SPR sales.” [Read more.](#)

National Labor Relations Board Joint Employer Status Final Rule. To follow up our prior reporting, on Oct. 27, the National Labor Relations Board (NLRB) published its final rule, *Standard for Determining Joint Employer Status* ([88 Fed. Reg. 73946](#)), that according to *Bloomberg Law*, “lowers the bar for multiple companies to qualify as joint employers that share liability for labor law violations.” Further, the action rescinds “a Trump-era rule that had made it more difficult for companies to be deemed joint employers. The now-nullified rule included a requirement that joint employment determinations turn on a business exerting direct and immediate control over the most important parts of a worker’s job.” The NLRB found that “requirement was an impermissible interpretation of federal labor law.” The new standard, which will only be applied prospectively to cases filed with the NLRB after the final rule effective date, expands the factors that can trigger a joint employer finding “to include evidence of indirect or unexercised control over essential job terms and conditions.” The new rule “defines seven categories of ‘essential’ employment terms and conditions that will be considered, including wages, benefits, and other compensation.” As this “new test also holds that indirect and unexercised control can establish joint employment [...] if a company exerts control over another firm’s workers through an intermediary, or has contractual authority over employment terms but never used that power, that could be enough evidence to prove the existence of a joint employer relationship.” Although NLRB actions predominantly apply to union work settings, they can also extend to instances of “concerted activity” among

non-union employees, which can include actions such as conditions of employment, benefits, wages, and work hours. And although this rule is primarily targeting franchises, service agreements, and staffing agency agreements, it is worthwhile to be aware it could extend to other instances of employment that may fit within the rule framework as indicated by national employment law firm Locke Lord. [Read more.](#) The final rule is effective Dec. 26, 2023. [Read more.](#)

FEDERAL – Judicial

ANWR Oil and Gas Leasing – Alaska. On Oct. 18, the Alaska Industrial Development and Export Authority (AIDEA) sued the Biden administration for the “unilateral termination” by the Department of the Interior (DOI) and Bureau of Land Management (BLM) “of oil and gas leases entered into by BLM” and the plaintiff. The AIDEA – a public corporation of the State of Alaska – purchased seven oil leases within the Arctic refuge in a 2021 lease sale held in the final days of the Trump administration. [Read more.](#) In the lawsuit, [*Alaska Industrial Development and Export Authority v. U.S. Dept. of the Interior*](#) (Case No. 1:23-cv-03126), the AIDEA states that “An Act of Congress directs DOI to facilitate the development of oil and gas resources on the Coastal Plan of Alaska within the Arctic National Wildlife Refuge” by “awarding leases for the production of such resources and taking additional steps to further the Leasing Program.” In short, the AIDEA is charging the Biden administration with “illegally canceling leases in the Alaska National Wildlife Refuge (ANWR) 1002 area and the detrimental impact this action has had on the Alaskan communities involved.” The group claims that under the 2017 “Tax Act” signed into law by President Trump, the law clearly states, “The Secretary shall establish and administer a competitive oil and gas program for the leasing, development, production, and transportation of oil and gas in and from the Coastal Plain.” Of the lawsuit, Alaska Gov. Mike Dunleavy (R) said, “The federal government is determined to strip away Alaska’s ability to support itself, and we have got to stop it. Alaska does responsible oil and gas development in the Arctic under stricter environmental standards than anywhere

else in the world. Yet the federal government is focused on trying to stop our ability to produce oil and gas. We will not allow illegal actions to occur against Alaska and I fully support this lawsuit.” We will keep AAPL members updated as the case proceeds.

[Read more.](#)

STATE – Legislative

Carbon Market Disclosures – California. On Oct. 7, Gov. Gavin Newsom (D) signed AB 1305 into law. Sponsored by Asm. Jesse Gabriel (D), the bill requires “a business entity that is marketing or selling voluntary carbon offsets within the state to disclose on the business entity’s internet website specified information about the applicable carbon offset project and details regarding accountability measures if a project is not completed or does not meet the projected emissions reductions or removal benefits.” The bill also “requires an entity that purchases or uses voluntary carbon offsets that makes claims regarding the achievement of net zero emissions or other, similar claims, as specified, to disclose on the entity’s internet website specified information. The bill would require an entity that makes these claims to disclose on the entity’s internet website all information documenting how, if at all, a claim was determined to be accurate or actually accomplished, how interim progress toward that goal is being measured, and whether there is independent third-party verification of the company data and claims listed.” The bill also provides penalties for violations and requires disclosures to be updated no less than annually. The Act takes effect Jan. 1, 2024.

[Read more.](#)

Voters to Weigh in on Electrical Grid Reliability – Texas. As a follow up to our reporting this year on [SJR 93](#) and [SB 2627](#), Texas voters will have the opportunity to weigh in on state ballot [Proposition 7](#) in the Nov. 7, 2023 general election. The ballot measure provides for the creation of a fund to address grid reliability issues, which primarily came to light in the wake of Winter Storm Uri in 2021, and for which the above legislative measures were adopted during this year’s 88th Legislative Session. Those measures related “to funding mechanisms to support the

construction, maintenance, modernization, and operation of electric generating facilities” through “a constitutional amendment providing for the creation of the Texas energy fund.” As reported in the media, the constitutional amendment is “designed to strengthen the grid by creating a dedicated fund to incentivize upgrades and new construction of dispatchable energy generating facilities. With \$5 billion authorized for the next two years, pending voter approval, the fund would provide grants and loans for natural gas-fired generating facilities able to provide power at any time.” Proponents in favor of the measure “said repeated calls for voluntary energy conservation this past summer from the state’s grid operator, the Electric Reliability Council of Texas, show the need to strengthen the grid.” Opponents – who include green and environmental groups – agree that “the grid needs to be strengthened but want more investments in renewable sources, saying the dispatchable sources targeted by the fund would drive further climate change.” Several organizations have expressed public support for the measure’s passage, “including ConocoPhillips Alaska, Koch Companies, the Texas Association of Manufacturers and the Texas Oil and Gas Association.” [Read more.](#)

STATE – Regulatory

Deep Geothermal Rulemaking – Colorado. On Oct. 18, the Colorado Energy & Carbon Management Commission (ECMC) announced the release of draft deep geothermal resources rulemaking. The rulemaking is a result of Colorado legislation signed into law in 2023. According to the ECMC, “Deep geothermal resource development is an emerging industry in Colorado that can utilize hot water in deep subsurface formations to produce energy or for direct heating uses. Colorado has several areas with higher than normal temperatures in the subsurface. These resources are mostly undeveloped and have vast future potential for energy development and direct heat use. Geothermal energy provides an alternative, clean, and renewable energy source that decreases our reliance on fossil fuels. The ECMC will be initiating a rulemaking for deep geothermal operations in the fall of 2023.” [Access the draft rulemaking here.](#) The

ECMC is also soliciting comments from the public on the draft rules although as of this report, they have not provided a deadline date. [Access the ECMC comment portal here.](#) For more general information on Colorado geothermal resources, [Read more here.](#)

Orphaned Well Rulemaking – Louisiana. On Oct. 20, the Louisiana Department of Natural Resources finalized a new rule “to help reduce the number of orphaned oil and gas wells throughout the state.” [Read the rule here \(pg. 1746 of the Louisiana Register\).](#) The new “regulation puts limits on extensions of the future utility status oil and gas drillers can receive and increases fees on wells that have been inactive and unplugged for five years or more. It also reduces fees for operators who plug 10 or more wells in a year. The federal government is providing Louisiana with more than \$100 million through 2030 to plug orphaned wells. With that funding, the Department of Natural Resources has hired contractors to plug about 500 wells so far this year.” [Read more.](#)

New Mexico Governor Orders Agency Vehicles to go Fully Electric by 2035. On Oct. 16, New Mexico Gov. Michelle Lujan Grisham (D) issued an Executive Order ([No. 2023-138](#)) requiring all state government agencies in New Mexico to transition to a fully electric vehicle fleet by 2035. The order states that transitioning New Mexico to a “zero-emission vehicles” fleet “will benefit the State and its residents environmentally, socially, and economically.” The governor will also be asking the legislature for a “robust” electric vehicle tax credit in the next session commencing in mid-January 2024. [Read more.](#)

New Mexico Climate Investment Center. On Oct. 13, New Mexico Gov. Michelle Lujan Grisham (D) “announced the formation of a nonprofit to help New Mexico get millions in federal dollars to invest in renewable and sustainable programs that could boost a gap the state has shown in receiving federal grants.” The New Mexico Climate Investment Center, known as the NMCIC, “could assist as a facilitator between legislative bodies, private companies, community groups and other nonprofits to help the state get some

of the billions in federal investments on areas focused on climate change initiatives,” said Gov. Lujan Grisham. [Read more](#). The NMCIC will operate as a “green bank.” Beth Beloff, interim chair of the NMCIC, said, “While it’s termed a green bank, you’ll hear that term, it’s very important to know it is not a bank. It does not take deposits. It does not compete in any of those ways for commercial banks. It operates as an investment fund, focusing on clean energy and equity focused investments, period.” [Read more](#).

Land Conservation Incentives Tax Credit Rule Amendments – New Mexico. On Oct. 10, the New Mexico, Energy, Minerals and Natural Resources Department (EMNRD), Forestry Division, and Taxation and Revenue Department (TRD) published proposed rulemaking changes to [NMAC 3.13.20](#) (Land Conservation Incentives Tax Credit). The purpose of the amendment is “to (1) update citations to Internal Revenue Service regulations in the definitions of qualified appraisal and qualified appraiser; (2) amend definitions of land, public or private conservation agency, and taxpayer to include citations to the statutes where those terms are defined because the State Rules Act, NMSA 1978, Section 14-4-5.7(B) provides words defined in the applicable statute should not be defined in rule; (3) revise the requirements and methods for submitting assessment and certification applications for the Land Conservation Incentives Tax Credit; (4) revise 3.13.20.10(A) NMAC to allow a taxpayer to increase the acreage of the proposed donation or decrease the size of or remove a proposed building envelope without having to submit a new assessment application for review and approval prior to submitting a certification application; (5) replace references to husband and wife with married individuals; (6) replace references to the Combined Reporting System with Business Tax Identification Number; (7) correct citations to statutes; and (8) make stylistic changes.” [Access the proposed rulemaking here](#). EMNRD and TRD will be holding a public hearing on the proposed rule amendments on Nov. 14, 2023 in Santa Fe, NM. The hearing will also be accessible virtually online. [Read more](#). For general information about the rulemaking, [Read more here](#).

Attorney General Review of Banks Restricting Work with the Oil and Gas Industry – Texas.

On Oct. 17, Texas Attorney General Ken Paxton announced his office is reviewing whether a number of financial institutions, including Bank of America and JPMorgan Chase, are violating a state law prohibiting restrictions in transactions or “boycotting” the oil and gas industry related to climate change. As reported by *Bloomberg Government*, “The office announced that it was reviewing companies that are members or affiliate members of the Net Zero Banking Alliance, Net Zero Insurance Alliance, Net Zero Asset Owner Alliance, or Net Zero Asset Managers.” [Read more](#).

STATE – Judicial

Deed Reservations; Oil and Gas Rights – Ohio. On Oct. 7, in [Faith Ranch & Farms Fund, Inc. v. PNC Bank, Natl. Assn.](#) (Case No. 2023-Ohio-3608), the Ohio Seventh District Court of Appeals addressed the disputed ownership of oil and gas rights underlying certain parcels of land owned by the appellee. At issue was whether the oil and gas was excepted and reserved from the conveyance of the subject parcels by a 1953 deed. The Faith Ranch & Farms Fund, as the successor in interest to the grantee, argued that the exception and reservation in the deed did not include oil and gas. At trial, the court found the language to be ambiguous as to whether oil and gas was included. On a summary judgment motion, however, “the trial court held the 1953 deed unambiguously reserved only ‘coal and other minerals’ that could be obtained by mining; that it did *not* include oil and gas.” The court found that the “absence of any reference to surface reservation or drilling sealed the conclusion that ‘other minerals’ did not include oil and gas.” Here, the appellate court agreed holding that “the 1953 deed’s reference to ‘other minerals’ did not include oil and gas.” While the court noted the presumption that “other minerals” would include “oil and gas unless the deed compels otherwise,” the court also noted “the lack of any words related to oil and gas development” in prior deeds. In short, with “nothing in the 1953 deed referencing anything other than coal mining and development, the necessary conclusion is that oil and gas was not included in the reservation.” [Read more](#).

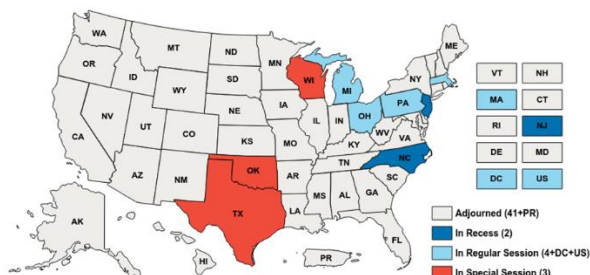
INDUSTRY NEWS FLASH

► **Colorado “clean energy” employment surpassing traditional energy.** On Oct. 16, trade group E2 reported that “Colorado’s fast-growing clean energy sector today employs more than twice as many workers statewide as the fossil fuel industry.” E2’s Annual Clean Jobs Colorado report “analyzed 2022 federal employment data and counted nearly 64,000 Coloradans employed across a range of categories including energy efficiency, renewable electricity generation and clean vehicles. That’s more than double the roughly 30,000 Coloradans directly employed by coal, oil and natural gas, according to E2’s analysis.” [Read more.](#)

► **Chevron to acquire Hess in \$53 billion deal.** On Oct. 23, Chevron Corp. announced it will acquire Hess in a \$53 billion stock deal. “This is great for energy security: It brings together two great American companies,” said Chevron Chief Executive Michael Wirth. As reported by *Reuters*, “Chevron said it would sell between \$15 billion to \$20 billion in assets following the latest acquisition and plans to spend between \$19 billion and \$21 billion on major projects.” This acquisition comes on the heels of the recent ExxonMobil announcement to acquire Pioneer Natural Resources. [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Michigan, Ohio, Pennsylvania, and Wisconsin are in regular session. The U.S. Congress is also in session.

Texas Republican Gov. Greg Abbott called the legislature into a third special session on Oct. 9. The session focuses on school choice, border security, and addressing Covid mandates. [Read more.](#)

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

The following states are currently posting 2023 bill drafts, pre-files and interim studies: [Alabama](#), [Delaware](#), [Florida](#), [Georgia](#), [Illinois House](#) and [Senate](#), [Iowa](#), [Maine](#), [Nebraska](#), [Nevada](#), [New Hampshire](#), [North Carolina](#), [Oklahoma House](#) and [Senate](#), [Tennessee](#), [Utah](#) and [Wyoming](#). ■

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GOVERNMENTAL AFFAIRS REPORT



Due to next week's Thanksgiving holiday, the next report will be published on December 4. Wishing you a safe, happy, and healthy holiday.

FEDERAL – Legislative

S. 3198 - Foreign Pollution Fee Act of 2023. On Nov. 2, Sen. Bill Cassidy (R-LA) introduced [S. 3198](#), known as the Foreign Pollution Fee Act of 2023. The bill aims to promote and expand American domestic energy production and manufacturing while punishing foreign countries, such as China, who ignore environmental standards at the expense of the American economy. For example, “the emissions intensity of Chinese-mined minerals is 100% higher than U.S. minerals. For Russia, their natural gas is 60% more emission intense and their oil is at least 33% more intense than U.S. natural gas and oil respectively.” The bill would impose certain fees on imports into the United States based upon tiers tied to pollution density calculations for those products and/or imports. “It makes absolutely no sense that we allow China to pollute freely and export their products to the U.S.— displacing U.S jobs, manufacturing, and excellence,” said Sen. Cassidy. “The Foreign Pollution Fee Act begins to hold China accountable for their lack of environmental standards while expanding domestic production, increasing opportunities for the American family, and decreasing global emissions.” [Read more.](#)

H.R. 6011 - Right-Of-Way Application Transparency and Accountability Act. On Nov. 7, official bill text was made available for [H.R. 6011](#), known as the Right-Of-Way Application Transparency and Accountability Act or the ROWATA Act. Sponsored by Rep. David G. Valadao (R-CA), the bill “addresses a significant bottleneck in the permitting process for energy projects on federal lands by requiring that federal agencies notify right-of-way applicants if their

application is complete within 60 days.” According to Rep. Valadao, “Currently, there is no timetable for responding to right-of-way applications.” [Read more.](#)

Senate Carbon Capture Hearing. On Nov. 2, the Senate Committee on Energy & Natural Resources held a hearing to “Examine the Opportunities and Challenges in Deploying Carbon Capture Utilization and Sequestration and Direct Air Capture Technologies on Federal and Non-Federal Lands.” Witnesses included government officials as well as a representative from the Wyoming Department of Environmental Quality. In his opening remarks, Committee Chairman Joe Manchin (D-WV) highlighted the deficiencies in the current administration’s approvals for Class VI permits citing a more-than-two-year backlog despite bipartisan support for deployment of carbon capture technologies and projects. To access a full video recording of the hearing and witness testimony, [Read more.](#)

House Committee on Energy and Commerce Leadership Letter to the EPA. On Nov. 7, House Energy and Commerce Chair Cathy McMorris Rodgers (R-WA) and Subcommittee on Environment, Manufacturing, and Critical Materials Chair Bill Johnson (R-OH) sent a letter to EPA Administrator Michael Regan regarding EPA proposals for new methane regulations and the agency’s implementation of the Methane Emissions Reduction program under the Inflation Reduction Act of 2022. The letter writers said, “questions and concerns remain about the scope and timeline of the EPA’s proposed and intended regulatory actions and the heavy burden it will impose on American families.” The letter asks the Administrator to respond to a series of questions “regarding EPA’s authorities for methane taxes and regulations under” the Clean Air Act. [Read the letter here.](#)

Congressional Representatives Urge Repeal of Natural Gas Tax in Methane Emissions Reduction Program. On Oct. 27, a group of Congressional Republicans, led by Rep August Pfluger (R-TX), delivered a letter to New House Speaker Mike Johnson (R-LA) and Senate Minority Leader Mitch McConnell (R-KY) urging the repeal of the natural gas tax in the Inflation Reduction Act's Methane Emissions Reduction Program (MERP). Pfluger wrote, "The MERP is an inappropriate and highly unworkable tax on methane emissions. This tax was included despite never being considered in a hearing, receiving expert testimony, and no economic analysis or examination of its efficacy. Instead of looking at emissions holistically, the MERP was based on the simple premise that if something is taxed, less of it will be produced." Further, "The natural gas tax is a statutory codification of the mandatory collection of emissions data, which has historically reported on a voluntary basis, under Subpart W of the Clean Air Act (CAA) and uses that data to levy a tax for emissions exceeding 25,000 tons of carbon dioxide equivalent. In 2024, companies will be required to collect this data and begin paying a fee of \$900 per metric ton for that year's data. This fee increases to \$1200 per metric ton for 2025 data and ultimately lands at \$1500 per metric ton for 2026 data and thereafter." In short, the letter writers say, "the ill-conceived natural gas tax will handicap technological innovation, reduce supplies of affordable energy, and increase both costs and emissions." [Read the letter here.](#)

Democrat Senators Voice Antitrust Concerns Over Oil and Gas Acquisitions. On Nov. 1, a group of Democrat senators sent a letter to the Federal Trade Commission Chair Lina Khan expressing their concern over recent multi-billion-dollar oil and gas industry acquisitions. [Read more.](#) The senators wrote, "By allowing Exxon and Chevron to further integrate their extensive operations into important oil-and-gas fields, these deals are likely to harm competition, risking increased consumer prices and reduced output throughout the United States. At the regional level, the deals threaten to harm small operators and suppress wages. The Federal Trade Commission (FTC) must carefully consider all of the possible anticompetitive harms that these acquisitions present. Should the FTC

determine that these mergers would violate antitrust law, we urge you to oppose them." [Read the letter here.](#)

Senate Letter Regarding SEC Climate Disclosure Rulemaking. On Nov. 9, Sen. Bill Hagerty (R-TN) and Sen. Joe Manchin (D-WV) sent a letter to Securities & Exchange Commission (SEC) Chairman Gary Gensler calling for the SEC to "solicit further public feedback on certain assumptions and the economic analysis underlying its proposal" prior to finalizing any climate disclosure rule, especially in light of California's recently passed emissions laws. The senators wrote, "You have recently acknowledged that the California emissions laws 'may change the baseline' and affect how the SEC estimates the costs of compliance and economic impacts of its own climate change disclosure rule." The letter further states, "The application of the California emissions law to private businesses is also a significant difference from the SEC's proposal. You have stated on several occasions that the SEC's proposal is only intended to establish new rules for public companies, notwithstanding the inevitable costs that would fall on thousands of private businesses that are part of a public company's value chain and would have to produce emissions information. The only way for the SEC to properly assess these questions in accordance with its obligations under the Administrative Procedure Act (APA) is to reopen the climate disclosure proposal for further public comment." [Read the letter here.](#)

House Committee Hearing on Department of Energy Regulations. On Nov. 8, the House Committee on Small Business held a hearing, "Burdensome Regulations: Examining the Effects of DOE Regulations on America's Job Creators," which focused on "examining the detrimental effects of the Department of Energy's regulations on our nation's job creators." Witnesses included industry representatives and think tank experts. To access a full video recording of the hearing and witness testimony, [Read more.](#)

West Virginia Senator Joe Manchin Announces He Won't Seek Reelection. On Nov. 9, Sen. Joe Manchin (D-WV) announced he will not seek reelection in 2024. Sen. Manchin is also the Chair of the Senate Energy and Natural Resources Committee,

and “has long been one of Congress’ most outspoken supporters of coal, oil and other fossil fuels.” The announcement is a major shakeup for Democrats who only hold a slim majority in the Senate and are expected to lose the seat to a Republican in the next election, most likely to popular West Virginia Governor Jim Justice. [Read more.](#)

FEDERAL – Regulatory

Interior Department Acting Deputy Secretary Appointment. (*Update to 10/26/23 Report*) On Oct. 31, the Interior Department announced that the Biden administration has selected Laura Daniel-Davis as Acting Deputy Secretary. [Read more.](#) Daniel-Davis most recently served as Principal Deputy Assistant Secretary for Land and Minerals Management at the Interior Department. The temporary appointment of Daniel-Davis comes after Deputy Secretary Tommy Beaudreau resigned in early October. Of particular note, in 2022 Daniel-Davis’s nomination as Assistant Secretary for Land and Minerals Management was blocked by the U.S. Senate Energy and Natural Resources Committee due to her anti-fossil fuel positions and past statements. [Read more.](#) It is unlikely that Daniel-Davis would be confirmed by the Senate for this current role. Regarding the current acting appointment, Sen. Joe Manchin (D-WV), Chair of the Energy and Natural Resources Committee, said, “This appointment is yet another example of this Administration disregarding Congress and elevating nominees when they are unable to get the bipartisan support needed for confirmation.” Sen. Manchin added that disregarding the confirmation process “undermines the role of the Senate.” Under federal law, an acting federal official may not serve for more than 210 days. [Read more.](#)

BLM Resource Advisory Council – Alaska.

On Oct. 27, the Bureau of Land Management (BLM) announced it is seeking applicants for membership on the Alaska Resource Advisory Council (RAC). “RAC members are local experts who advise the BLM Alaska State Director, and through them the Secretary of the Interior, on public land management issues within Alaska including land use planning, environmental issues, fire management, off-highway vehicle use,

recreation, oil and gas exploration, noxious weed management, and grazing issues. Each RAC consists of 10- to 15-members from diverse interests, who serve for three-year terms, meeting two-to-three times per year.” Applicants may self-nominate. The application period runs through Nov. 24, 2023. [Read more.](#)

BLM Resource Advisory Council – California.

On Oct. 31, the BLM announced it is seeking applicants for membership on the Northern California District Resource Advisory Council (RAC). “This citizen-based council assists in the development of recommendations that address public land management issues within a district that encompasses public lands in the northern third of California.” Applicants may self-nominate. The application period runs through Nov. 27, 2023. [Read more.](#)

BLM Oil and Gas Lease Sale – Texas. On Nov. 6, the BLM “opened a 30-day public scoping period to receive public input on four oil and gas parcels totaling 6,972 acres that may be included in an August 2024 lease sale in Texas. The comment period ends Dec. 6, 2023.” [Read more.](#)

BLM Oil, Gas, and Geothermal Information

Collection. On Nov. 7, the BLM published a notice of information collection, *Agency Information Collection Activities; Oil and Gas, or Geothermal Resources: Transfers and Assignments* ([88 Fed. Reg. 76846](#)), that proposes to renew an information collection. According to the BLM, “This collection of information enables the BLM to process assignments of record title interest and transfers of operating rights in a lease for oil and gas or geothermal resources.” The public comment period is open through Jan. 8, 2024. [Read more.](#)

BLM Draft Resource Management Plan Amendment and Draft Environmental Impact Statement for Big Game Habitat Conservation for Oil and Gas Management – Colorado. On Nov. 9, the BLM published a *Notice of Availability of the Draft Resource Management Plan Amendment and Environmental Impact Statement for Big Game Habitat Conservation for Oil and Gas Management, Colorado* ([88 Fed. Reg. 77350](#)). According to the notice, the BLM has “prepared

a Draft Resource Management Plan (RMP) Amendment and Draft Environmental Impact Statement (EIS) for Big Game Habitat Conservation for Oil and Gas Management and by this notice is providing information announcing the opening of the comment period on the Draft RMP Amendment/EIS.” Further, “This document provides notice that the BLM Colorado State Director has prepared a Draft RMP Amendment/EIS and provides information announcing the opening of the comment period on the Draft RMP Amendment/EIS. The RMP amendment addresses alternative approaches for oil and gas management in order to maintain, conserve, and protect big game high priority habitat that would require amending” the listed existing plans. This notice opens up a 90-day public comment period in coordination with the Environmental Protection Agency’s publication of its Notice of Availability in the Federal Register. [Read more.](#)

BLM Draft Resource Management Plan Amendment and Draft Environmental Impact Statement for the Gunnison Sage-Grouse – Colorado; Utah. On Nov. 9, the BLM published a *Notice of Availability of the Draft Resource Management Plan Amendment and Environmental Impact Statement for the Gunnison Sage-Grouse (Centrocercus minimus), Colorado and Utah* ([88 Fed. Reg. 77353](#)). According to the notice, the BLM “has prepared a draft Resource Management Plan (RMP) amendment and draft Environmental Impact Statement (EIS) for the Gunnison Sage-Grouse (*Centrocercus minimus*) and by this notice is providing information announcing the opening of the comment period on the draft RMP amendment/EIS and is announcing the comment period on the BLM’s proposed areas of critical environmental concern (ACECs).” Further, “The RMP amendment is being considered to allow the BLM to evaluate protections for Gunnison Sage-Grouse consistent with the latest measures in the recently completed U.S. Fish and Wildlife Service (USFWS) recovery plan, which would require amending” the listed existing plans. This notice opens up a 90-day public comment period in coordination with the Environmental Protection Agency’s publication of its Notice of Availability in the Federal Register. [Read more.](#)

BLM Geothermal Exploration – Nevada. On Nov. 6, the Interior Department announced that the BLM “is seeking public input on a proposed geothermal exploration project on public lands in Lyon County. BLM is developing a draft environmental assessment for the proposed Wabuska Geothermal Exploration Project, which would assess the potential for future geothermal development on approximately 54 acres of public lands north of Yerington.” The public comment period is open through Dec. 6, 2023. [Read more.](#)

U.S. Forest Service Carbon Capture Proposed Rulemaking. On Nov. 3, the U.S. Forest Service published a proposed rule that “is proposing to amend its special use regulations, which prohibit authorizing exclusive and perpetual use and occupancy of National Forest System lands, to provide an exemption for carbon capture and storage. The Forest Service is also proposing to add a definition for ‘Carbon capture and storage.’” According to the Forest Service, “Carbon dioxide injected in pore spaces may remain for over 1,000 years after injection and would be tantamount to an exclusive and perpetual use and occupancy if authorized on NFS [National Forest Service] lands.” Therefore, the Forest Service is proposing to amend the initial screening criterion “that prohibits authorizing exclusive and perpetual use and occupancy of NFS lands to provide an exemption for carbon capture and storage.” The public comment period is open through Jan. 2, 2024. [Read more.](#)

FEDERAL – Judicial

BLM Oil and Gas Leasing – New Mexico; Wyoming. On Nov. 1, a federal court dismissed an action by environmental groups seeking to invalidate thousands of oil and gas applications for permit to drill (APDs) on federal lands in New Mexico and Wyoming. In [Center for Biological Diversity v. U.S. Dept. of the Interior](#) (Case No. 22-cv-01716), the plaintiff groups had challenged “4,366 approvals” for “oil and gas in New Mexico’s Permian Basin and Wyoming’s Powder River Basin.” The plaintiffs claimed the APD approvals violated numerous federal laws, specifically the National Environmental Policy Act, the Endangered Species Act, and the Federal Land Policy and

Management Act, and their implementing regulations. The court distinguished this case from others where an action might be cognizable because here the plaintiffs only have a “geographical nexus” with the APD areas and they do not identify individual members who use the areas affected by the challenged individual APDs that would confer standing to bring the action. Writing for the court, Obama-appointed District Judge Tanya Chutkan concluded that the plaintiffs “fail to allege a cognizable injury in fact under either an organizational standing theory or an associational standing theory, and therefore cannot establish standing.” As such, the court lacked jurisdiction in the case, thereby dismissing the action in a victory for the oil and gas industry. [Read more.](#)

STATE – Legislative

Foreign Title or Ownership of Land; Deed Recordation – Oklahoma. On Nov. 1, [SB 212](#) went into effect. Sponsored by Sen. David Bullard (R) and signed into law by Gov. Kevin Stitt in June, the bill provides that “no alien or any person who is not a citizen of the United States shall acquire title to or own land in the State of Oklahoma either directly or indirectly through a business entity or trust,” however, this subsection “does not apply to a business entity that is engaged in regulated interstate commerce in accordance with federal law.” The bill also provides “that on or after the effective date of this act, any deed recorded with a county clerk shall include as an exhibit to the deed an affidavit executed by the person or entity coming into title attesting that the person, business entity, or trust is obtaining the land in compliance with the requirements of this section and that no funding source is being used in the sale or transfer in violation of this section or any other state or federal law. A county clerk shall not accept and record any deed without an affidavit as required by this section. The Attorney General shall promulgate a separate affidavit form for individuals and for business entities or trusts to comply with the requirements of this section, with the exception of those deeds which the Attorney General deems necessary when promulgating the affidavit form.” In short, “SB 212 requires any deed that is recorded with the county

clerk to include an affidavit as an exhibit that is executed by the person, entity, or trust coming into title attesting that the person, entity, or trust is taking title in compliance with state laws on foreign ownership of property.” [Read more.](#) Since bill passage, the Oklahoma Attorney General has provided model affidavit forms for (1) an individual; (2) a non-exempt business or trust; and (3) an exempt business and trust, [which can be accessed here.](#)

STATE – Regulatory

NMED Proposed Water Reuse Rulemaking – New Mexico. On Nov. 1, the New Mexico Environment Department (NMED) announced the opening of the public comment period for the “NMED’s proposed water reuse regulations, Ground and Surface Water Protection – Supplemental Requirements for Water Reuse ([20.6.8 NMAC](#)). NMED will consider comments submitted to the Department through this public comment period to further develop the proposed regulations prior to petitioning for a public rulemaking hearing. [Read more.](#) As delegated by the Water Quality Control Commission (WQCC), the Department has begun the preliminary stages of drafting the State’s Ground and Surface Water Protection – Supplemental Requirements for Water Reuse ([20.6.8 NMAC](#)), including 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.” [Read more.](#) For further information on the NMED Water Reuse regulatory process, [Read more.](#) The public comment period is open through Dec. 1, 2023. [Read more.](#)

State Oil and Gas Regulator to Step Down – New Mexico. On Nov. 9, New Mexico Governor Michell Lujan Grisham (D) announced that [Sarah Cottrell Propst](#), Secretary of the Energy, Minerals and Natural Resources Department (EMNRD), is ending her five-year tenure and is leaving her post at year’s end. In a statement, Gov. Lujan Grisham “praised Cottrell Propst for responsible stewardship of natural resources that limited local climate pollution.” No replacement has been named as of this report. [Read more.](#)

Texas Controller Updates List of Financial Companies that Boycott Energy Companies.

On Nov. 1, Texas Controller Glenn Hegar announced his office “has added five firms to his office's [list of companies that boycott the oil and gas industry](#). Listed companies are subject to the divestment provisions outlined in Texas Government Code Chapter 809, which define a financial company as a publicly traded financial services, banking or investment company.” According to Hegar, “My goal has been to create a more open, honest and transparent conversation. I wanted to end the doublespeak by so many companies and show the critical impact that fossil fuels have on our daily lives. Fostering transparent conversation in Texas and throughout our nation ultimately creates a change in behavior by financial institutions.” [Read more.](#)

Texas RRC Commissioner Wayne Christian Opposes Anti-Oil & Gas Indoctrination in Texas Student Textbooks. On Nov. 1, the Texas Railroad Commission (RRC) announced that “The Texas State Board of Education (SBOE) issued its [Proclamation 2024](#) which will determine the types of textbooks and materials for Texas students in the 2024-2025 school year. As a part of the public comment process, Railroad Commissioner Wayne Christian sent a letter to the SBOE with concerns that the materials would adopt a radical environmentalist agenda promoting ‘net zero’ lessons over teaching students realistic STEM skills needed for high-paying jobs in the energy industry.” [Read the letter here.](#) “Texas students don’t need to be brainwashed in class that oil and gas is evil, when our schools should be preparing them for the real world,” said Commissioner Christian. “The Lone Star State needs a challenging, unbiased, and practical approach to educating our STEM students, preparing them for in-demand, high paying jobs in Texas’ oil and gas industry. The last thing our state needs is a woke environmental agenda pushed by President Biden and former Vice President Al Gore teaching our kids to hate fossil fuels.” [Read more.](#)

Voters Approve Electrical Grid Reliability and Water Infrastructure Propositions – Texas.
(Update to 10/30/23 Report) As a follow up to our prior

reporting on the general election Texas ballot measures, Texas voters have overwhelmingly approved [Proposition 7](#), a ballot measure that creates the multi-billion-dollar Texas Energy Fund to make “low-interest loans available for the construction of gas-fueled power plants, as well as completion bonuses for that construction and repairs to existing plants in areas controlled by grid operator ERCOT.” The fund addresses grid reliability issues by shoring up natural gas-fired electric power generation, which primarily came to light in the wake of Winter Storm Uri in 2021, and for which the state legislature adopted legislation during this year’s 88th Legislative Session. Proposition 7 was widely supported by the oil and gas industry. [Read more.](#) Voters also overwhelmingly approved [Proposition 6](#), which creates the Texas Water Fund that provides for water infrastructure projects, water and wastewater financial assistance programs, and other water supply-related programs. [Read more.](#)

INDUSTRY NEWS FLASH

► **Energy Department Continues to Replenish the Strategic Petroleum Reserve.** On Nov. 6, the U.S. Department of Energy (DOE) announced “a supplemental solicitation for up to three million barrels of oil for delivery in January 2024.” This marks “the second solicitation for January 2024 delivery as DOE aims to purchase oil when it can purchase at a good deal for taxpayers; a price of \$79 dollars per barrel or below, far less than the average of about \$95 per barrel DOE received for 2022 emergency SPR sales.” [Read more.](#)

► **Louisiana Republican Attorney General Jeff Landry Wins Governor Race.** Last week, Louisiana Attorney General Jeff Landry won his election for governor, becoming the first Republican to hold the governor’s office since 2016. The office is currently held by term-limited Democrat Governor John Bel Edwards. A staunch supporter of the oil and gas industry, Landry “has made a national name for himself as Louisiana’s attorney general through aggressive litigation against the Biden administration,

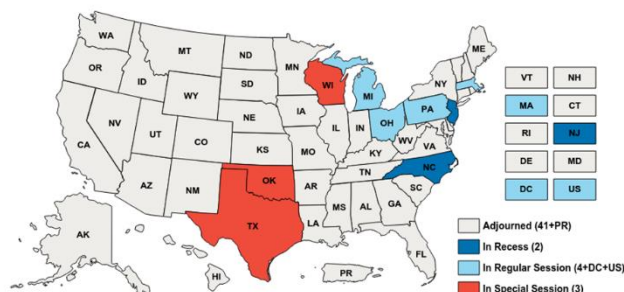
leading several lawsuits against Biden policies on everything from offshore oil lease sales to [...] the cancellation of the Keystone XL pipeline. His most aggressive fight has been against the Environmental Protection Agency, which has been trying to address air pollution in the state's oil and gas industry." Landry will be sworn in as the 57th governor of Louisiana in Jan. 2024. [Read more.](#)

► **Gas & Oil Association of West Virginia Announces New President.** On Nov. 6, the Gas and Oil Association of West Virginia announced a new president for the 2023-2024 term. "Jeff Isner, co-founder and CEO of Pillar Energy, was elected to lead the organization this year after having previously served as vice president and as a board member." [Read more.](#)

► **Oil and Gas Companies Oppose New Mexico Nuclear Waste Site.** On Nov. 1, a number of oil and gas companies and local governments signed on to a letter from the Permian Basin Coalition in opposition to a nuclear waste storage facility near Carlsbad and Hobbs. The facility, to be operated by Holtec International, was approved by the federal Nuclear Regulatory Commission in May "after years of public meetings, comments and analysis of the project." [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Michigan, Ohio, Pennsylvania, and Wisconsin are in regular session. The U.S. Congress is also in session.

Colorado Democrat Gov. Jared Polis [called](#) for a special session to begin on Nov. 17. The special session aims to address the rising property taxes within the state after voters rejected Proposition HH that was designed to aid property costs, reports [CBS News](#). While the legislature has already allocated over \$200 million for property tax relief, Governor Polis wants lawmakers to approve further aid on the issue.

Texas Republican Gov. Greg Abbott [called](#) the legislature into another special session on Nov. 7, the fourth special session this year. This special session began immediately after the adjournment of the previous special session, which failed to pass the governor's legislation on school vouchers or border security. According to [The Texas Tribune](#), the agenda for this special session includes school funding, a school voucher program and increased border security funding. The legislature was unable to pass any of these measures during the previous special session, with only a ban against employer COVID-19 vaccine mandates making it to Governor Abbott's desk.

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

The following states are currently posting 2024 bill drafts and pre-files: [Alabama](#), [Delaware](#), [Florida](#), [Georgia](#), [Illinois House](#) and [Senate](#), [Iowa](#), [Maine](#), [Nebraska](#), [Nevada](#), [New Hampshire](#), [North Carolina](#), [Oklahoma House](#) and [Senate](#), [Tennessee](#), [Utah](#) and [Wyoming](#). ■

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GOVERNMENTAL AFFAIRS REPORT

FEDERAL – Legislative

H.R. 6285 - Alaska's Right to Produce Act of 2023.

On Nov. 28, official bill text was made available for [H.R. 6285](#), known as the Alaska's Right to Produce Act of 2023. Sponsored by Rep. Pete Stauber (R-MN), the bill would reverse the Biden Administration's decision to prohibit oil and gas development on 13 million acres within the National Petroleum Reserve-Alaska (NPR-A). It would also reinstate the "lawfully awarded leases" that the Biden administration "cancelled within the non-wilderness Coastal Plain of the Arctic National Wildlife Refuge (ANWR)." Of the bill, Rep. Stauber said, "Alaska has been blessed with vast deposits of oil and natural gas that can unleash economic prosperity, which is why the responsible development of these resources is widely supported by inhabitants of the state, Alaska Native communities, and their entire Congressional delegation. Biden's decision to take these resources offline not only ignores the needs of Alaskans, particularly the Alaska Natives that live and work on the North Slope, it also ignores our nation's energy and security needs [...] so I am proud to lead the introduction of this legislation to help restore oil and gas leasing and production on the North Slope." [Read more.](#)

Senate Hearing on Decarbonization. On Nov. 15, the Senate Committee on Environment & Public Works held a hearing, "Opportunities in Industrial Decarbonization: Delivering Benefits for the Economy and the Climate," that included industry witnesses discussing the challenges and benefits of reducing greenhouse gas and industrial emissions. To access a full video recording of the hearing and witness testimony, [Read more.](#)

House Energy Hearing. On Nov. 14, the House Environment, Manufacturing, & Critical Materials

Subcommittee of the House Energy and Commerce Committee held a hearing, "Clean Power Plan 2.0: EPA's Effort to Jeopardize Reliable and Affordable Energy for States." The hearing examined "State perspectives concerning the Environmental Protection Agency's (EPA's) proposed greenhouse gas emissions standards for the power sector and the reliable delivery of electricity." The committee hearing memo describes how proposed rulemaking "presents myriad issues for states, which would have to implement the standards, particularly on existing fossil generation sources." Witnesses included government officials from Maryland, North Dakota, Tennessee, and Utah. To access a full video recording of the hearing and witness testimony, [Read more.](#)

FEDERAL – Regulatory

BLM Resource Advisory Council – Montana.

On Nov. 27, the BLM announced the next meeting of the Western Montana District Resource Advisory Council (RAC) will be held on Dec. 11, 2023. RAC meetings are open to the public and there is an option to attend virtually online. The RAC "offers advice on the implementation of the comprehensive, long-range plan for management, use, development, and protection of the public lands within the District." [Read more.](#)

BLM NPR-A Reduced Leasing Acreage Proposed Rulemaking – Alaska. (Update to 10/30/23 Report)

On Nov. 17, the BLM once again extended the public comment period for its National Petroleum Reserve in Alaska (NPR-A) reduced acreage rulemaking. The comment period is now open through Dec. 7, 2023. [Read more.](#) This is the second time the comment period has been extended. On Oct. 17, the BLM had extended the comment period to Nov. 17, 2023. Although the BLM did not provide an explanation for the extensions, many stakeholders had criticized the proposed rulemaking

and asked for extensions on numerous occasions. For background, on Sept. 6, President Biden announced plans to protect about 13 million acres in the NPR-A. (See [Management and Protection of the National Petroleum Reserve in Alaska; 88 Fed. Reg. 62025](#)). The proposal “would prohibit any new leasing in 10.6 million acres, which is more than 40 percent of the reserve,” said Interior Secretary Deb Haaland. [Read more](#). In response, Sen. John Barrasso (R-WY), ranking member of the Senate Committee on Energy and Natural Resources, said, “President Biden’s war on American energy continues. With the stroke of a pen, his administration is placing more than 40 percent of the National Petroleum Reserve off limits for petroleum production. He is ignoring the law and making us more dependent on foreign oil. Not only is this bad energy policy, it’s bad foreign policy. Today’s decision rewards our adversaries and hurts American families.” [Read more](#). For further information, access the [BLM NPR-A rulemaking website here](#), which includes numerous planning documents and a proposed rule fact sheet.

BLM Resource Management Plan and Environmental Impact Statement Amendments – Colorado. On Nov. 29, the BLM announced that the “Colorado State Office is seeking public input on a Resource Management Plan Amendment and Draft Environmental Impact Statement to consider an amendment to oil and gas decisions in existing BLM Colorado resource management plans to promote conservation of big game High Priority Habitat.” This follows the BLM’s Notice of Availability published on Nov. 9, 2023, that began a 90-day public scoping period. The BLM also announced it “will hold two virtual meetings and three in-person meetings in Colorado to provide information and answer questions regarding this amendment. The public meetings will help attendees learn about the plan amendment and formulate written submissions for the BLM before the comment period ends on February 6, 2024.” [Read more](#).

BLM Oil & Gas Lease Sale – Kansas; New Mexico. On Nov. 20, the BLM “opened a 30-day public comment period to receive public input on 26 oil and gas parcels totaling 6,162 acres that may be included in an upcoming lease sale in New Mexico and Kansas.

The comment period ends Dec. 20, 2023. The BLM completed scoping on these parcels in Sept. 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 & Gas Lease Sale – Mississippi. On Nov. 29, the BLM Eastern States State Office “opened a 30-day public comment period to receive public input on three oil and gas parcels totaling 91 acres that may be included in an upcoming lease sale in Mississippi. The comment period ends Dec. 29, 2023. The BLM completed scoping on these parcels in 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 & Gas Lease Sale – Nevada. On Nov. 27, the BLM “opened a 30-day public scoping period to receive public input on two oil and gas parcels totaling 2320 acres that may be included in a June 2024 lease sale in Nevada.” The public comment period ends Dec. 27, 2023. [Read more](#).

BLM Oil & Gas Lease Sale – North Dakota. On Nov. 16, the BLM “opened a 30-day public comment period to receive public input on 31 oil and gas parcels totaling 6,510 acres that may be included in an upcoming lease sale in North Dakota. The comment period ends Dec. 18, 2023. The BLM completed scoping on these parcels in October 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](#).

ONRR Information Collection. On Dec. 1, the Interior Department’s Office of Natural Resources Revenue

(ONRR) published a notice of information collection, *Agency Information Collection Activities; Collection of Monies Due the Federal Government; and Processing Refund Requests Related to Overpayments Made to ONRR* ([88 Fed. Reg. 83962](#)). According to the notice, “ONRR is proposing to revise an information collection. Through this Information Collection Request (ICR), ONRR seeks 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 closes Jan. 30, 2024. [Read more.](#)

ONRR Federal Oil and Gas Marginal Properties.

On Nov. 22, the Interior Department’s Office of Natural Resources Revenue (ONRR) published a notice, *States’ Decisions on Participating in Accounting and Auditing Relief for Federal Oil and Gas Marginal Properties* ([88 Fed. Reg. 81432](#)), stating that “In accordance with Office of Natural Resources Revenue (ONRR) regulations, ONRR provides two types of accounting and auditing relief for Federal oil and gas production from marginal properties: the cumulative royalty reports and payments relief option, which allows a lessee or designee to submit one royalty report and payment for the calendar year’s production; and other requested relief, which allows a lessee or designee to request any type of accounting and auditing relief that is appropriate for production from the marginal property and meets certain requirements. By October 1 of each calendar year, ONRR provides a list of qualifying marginal Federal oil and gas properties to the States receiving a portion of Federal royalties from those properties. Each State then decides whether to participate in neither, one, or both relief options. This Notice provides the public [with] each State’s decision on whether to participate in marginal property relief.” [Read more.](#)

Inflation Reduction Act Methane Emission Reduction Program IPAA Webinar. On Dec. 6, the Independent Petroleum Association of America (IPAA) will be hosting a webinar titled, [“Walks Like a Tax, Talks Like a Tax: Examining the EPA’s New Methane Tax”](#) covering the Inflation Reduction Act’s Methane

Emission Reduction Program (MERP) that “included a tax on oil and gas operations emissions that currently will be applicable for emissions in the 2024 calendar year and onward. This webinar will provide a lay of the land; background on the tax; factors that will determine the tax’s scope and breadth including calculations and compliance; and related and conjunctural regulations. You will also be able to hear a practitioner’s perspective, including lessons learned and best practices. Speakers include IPAA’s Lee Fuller, Pickering Energy Partners’ Dan Romito, and EnerVest Operating’s Jim McKinney.” [Register here.](#)

FEDERAL – Judicial

Petition to Phase out Oil and Gas Extraction on Public Lands – District of Columbia. On Nov. 28, an environmental group filed a complaint against the Interior Department alleging the agency violated the Freedom of Information Act for failing to release public records about its decision to reject the group’s petition to phase out oil and gas extraction on federal lands. In [Center for Biological Diversity v. U.S. Dept. of the Interior](#) (Case No. 1:23-cv-03544), the complaint filed in the U.S. District Court for the District of Columbia states that requested records regarding a 2022 filed rulemaking petition that asked the Interior Department to phase out oil and gas production to near zero by 2035 have not been received. That petition was rejected in June 2023 by the Interior Department, prompting the Freedom of Information Act request for records related to that decision. The Interior Department has not yet responded to the complaint. [Read more.](#)

Federal Offshore Oil and Gas Lease Sale – Louisiana. (*Update to 10/2/23 Report*) In a victory for the oil and gas industry, on Nov. 14, the U.S. Court of Appeals for the 5th Circuit dismissed a challenge by environmentalists to block a Gulf of Mexico lease sale. The court ordered that the postponed oil and gas lease be held within 37 days and has now been scheduled for Dec. 20. [Read more.](#) Environmental groups had filed court challenges to halt the sale which was originally ordered by a lower court to be held in November, but that ruling was stayed pending

the latest appeal. [Read more](#). For background, on Sept. 26, the appellate court [ruled against the Biden administration and environmental activists](#) by leaving a lower court order in place and specifically ordered that the offshore sale take place no later than Nov. 8, 2023. [Read more](#). In the case, [State of Louisiana v. Haaland](#) (Case No. 2:23-cv-01157-JDC-KK), plaintiffs who are the State of Louisiana, American Petroleum Institute, and Chevron USA Inc., and Shell Offshore Inc. sought to remove restrictions on acreage and ship movements that were added just a month before the planned Lease Sale 261 by the Bureau of Ocean Energy Management, as well as the withdrawal of six million acres from that sale. The Louisiana Attorney General said this “eleventh hour” move by the Interior Department pulling millions of acres off the auction block could cost the state as much as \$2.2 million in lost royalties. The court wrote, “The process followed here looks more like a weaponization of the Endangered Species Act than the collaborative, reasoned approach prescribed by the applicable laws and regulations. Even when an agency’s decision is based on political considerations, it is not excused from justifying the position—particularly when the decision is a pivot from a prior policy.” In response to the latest ruling, American Petroleum Institute General Counsel Ryan Meyers said, “The U.S. Gulf of Mexico plays a critical role in maintaining affordable, reliable American energy production, and today’s decision creates greater certainty for the essential energy workforce and the entire Gulf Coast economy.” [Read more](#).

STATE – Legislative

Extraordinary Legislative Session Bills – Colorado.

On Nov. 9, Gov. Jared Polis called for a special session of the Colorado legislature, known as an Extraordinary Session, to bring property tax relief to homeowners for the 2023 tax year, among other issues. [Read more](#). The session adjourned on Nov. 20 with the following relevant bills passing the legislature: **SB23B-001**, provides for residential property tax relief by reducing the valuation of multi-family residential real property and all other residential real property as provided, [Read more](#) (signed by Governor;

Multiple effective dates); **SB23B-003**, the Identical TABOR Refund bill, which refunds excess state revenues (TABOR refunds) if the state exceeds its fiscal year spending limit and after reimbursing local governments, a sales tax refund would be provided “for individual taxpayers, the amount of which is either based on 6 tiers of income or, if there is insufficient revenue for the tiered approach, is an identical refund amount,” [Read more](#) (signed by Governor; Effective through Dec. 31, 2028); **HB23B-1001**, creates the Emergency Rental Assistance Grant Program to provide grants to residential tenants who have an annual household income of 80% or less than the area median income and are at risk of eviction or displacement, [Read more](#); **HB23B-1002**, the Increased Earned Income Tax Credit bill, which provides a one-time TABOR refund mechanism for an increase in the earned income tax credit that a resident individual, including a resident individual who does not have a social security number valid for employment, may claim on the resident individual's income tax return, [Read more](#); **HB23B-1003**, creating a Property Tax Task Force “to study and develop a permanent and sustainable property tax structure for the state of Colorado,” [Read more](#). Unless noted above, some bills are still awaiting action by the governor as of this reporting. [Read more](#).

Zero-Carbon Energy Standards – Michigan. On Nov. 28, Gov. Gretchen Whitmer (D) signed [SB 271](#) into law as part of a zero-carbon energy bill package. The bill provides for Michigan's 100% clean energy target, that “directs state utilities to transition 60% of electricity generation to renewables. Energy sources such as nuclear power, hydrogen fuel and natural gas coupled with carbon capture are allowed to count toward the remaining 40%.” An earlier version of the bill “included a more aggressive timeline for achieving a 100% clean energy standard, proposing a 2035 deadline. The adjusted timeline requires hitting clean energy targets along the way to 2024 with an 80% clean energy standard by 2035, a renewable standard of 50% of 2030 and 60% by 2035.” The bill also mandates “that state utilities shift 100% of electricity sales to clean energy sources by 2040.” [Read more](#). The governor also signed into law related energy

package bills: [HB 5120](#) (amends the Clean and Renewable Energy and Energy Waste Reduction Act to provide the Michigan Public Service Commission with the authority to approve large scale renewable energy projects, including solar, wind and battery storage, and removing that exclusive control from local governments); [HB 5121](#) (amends the Michigan Zoning Enabling Act to provide that zoning ordinances are subject to the provisions of HB 5120); [SB 273](#) (amends the Clean and Renewable Energy and Energy Waste Reduction Act to add or amend provisions related to energy waste reduction plans, efficient electrification measures, low-income energy waste reduction programs, alternative compliance trainings, and workforce diversity); [SB 277](#) (allows farmers to rent out their land for solar energy generation while still participating in the state's farmland and open space preservation program); [SB 502](#) (Instructs the Michigan Public Service Commission, which regulates public utilities, to weigh factors like equity, environmental justice, affordability, public health and more when reviewing energy companies' operations plans); and [SB 519](#) (Creates the Community and Worker Economic Transition Office within the Michigan Department of Labor and Economic Opportunity tasked with assisting workers to transition to new industries as the state's economy pivots to renewable energy generation). Bills take effect 90 days following the Nov. 14 special session adjournment. [Read more.](#)

STATE – Regulatory

CalGEM Draft Cost Estimate Regulation for Bonding – California. As an update to our prior reporting, on Nov. 27, the California Geological Energy Management Division (CalGEM) released draft *Cost Estimate Regulations for Oil and Gas Operations* regulations to update their prior draft release. [Read more.](#) According to the California Independent Petroleum Association (CIPA), the draft represents “the cost estimates that will be applied to financial assurance requirements surrounding plugging and abandoning oil wells and facilities.” According to CIPA, “If CalGEM overestimates remediation costs, it could have a negative impact on operators’ compliance

with [AB 1057](#) bonding and assurance requirements. Falsely high estimates could create a self-fulfilling prophecy and put some producers out of business, which is exactly what the state should want to avoid.” The public comment period is open through Dec. 12, 2023. To access the CalGEM rulemaking website and information for submitting public comments, [Read more.](#)

State Water Resources Board Oil and Gas Groundwater Monitoring – California.

On Nov. 14, the California Water Resources Board announced that on Dec. 11 the U.S. Geological Survey (USGS) “will be presenting summaries of recently published studies for the State Water Board Oil and Gas Regional Groundwater Monitoring Program (RMP).” For background, “California Water Code section 10783 (Senate Bill 4, Pavley, statutes of 2013) requires the State Water Board to implement a regional groundwater monitoring program. The program goal is to evaluate potential impacts from oilfield operations and characterize the risk to groundwater resources, while prioritizing areas to be monitored. The U.S. Geological Survey is technical lead and will be presenting summaries on recently published studies.” According to the California Independent Petroleum Association, “An agreement between the State Water Resources Control Board and the USGS has resulted in several studies and dozens of papers being published to determine if oil and gas operations (wellbore stimulation treatments and Class II wells specifically) are causing any harm to regional groundwaters. To date there has not been any determination of adverse impacts resulting from oilfield operations.” Information on the Board’s Regional Groundwater Monitoring [can be accessed here](#). For information on attending the Dec. 11 virtual online meeting, [Read more here](#).

Ohio Greenlights Oil and Gas Drilling in State

Parks and Wildlife Areas. As an update to our prior reporting, on Nov. 15, the Ohio Oil and Gas Land Management Commission unanimously voted in favor of accepting bids for oil and gas drilling “under Salt Fork State Park in Guernsey County, Valley Run Wildlife Area in Carroll County and Zepernick Wildlife Area in Columbiana County.” [Read more.](#) The

Commission will start accepting bids in Jan. 2024. For background, “Ohio legalized leasing its public lands for oil and gas exploration in 2011, but the law stalled until Republicans in the state legislature rewrote it in December 2022. Legislators said they wanted to kickstart a law that had been on the books for more than a decade. Ohio Oil and Gas Association President Rob Brundrett said he was ‘pleased to see the commission continue to advance nominated parcels to the bidding process laid out by the statute.’” [Read more.](#)

Bond Requirements Rulemaking – Oklahoma.

On Nov. 15, the Oklahoma Commissioners of the Land Office released proposed 2024 rulemaking for oil and gas operations related to bond requirements. Specifically, the proposal amends existing bond requirements regarding saltwater operation performance bonds. [Read the proposed rule here.](#) For further information, the Commissioners also provided a [Rule Impact Statement accessible here.](#) The Commissioners ask that “Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts, if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules.” The public comment period is open through Dec. 15, 2023. In addition, a public hearing will be held on Dec. 19, 2023 “in the Large Conference Room, located at the offices of the Commissioners of the Land Office at 204 N. Robinson, Suite 900, Oklahoma City, OK 73102.” [Read more.](#) For general information about the Commissioners of the Land Office rules and regulations, [Read more.](#)

Texas RRC Commissioner Wayne Christian Opposes Anti-Oil & Gas Indoctrination in Texas Student Textbooks. *(Update to 11/13/23 Report)*

On Nov. 17, the Texas Railroad Commission (RRC) announced that “the Texas State Board of Education voted on its [Proclamation 2024](#) which determines the types of textbooks and materials students will use in the 2024-2025 school year. Following the SBOE’s actions, Texas Railroad Commissioner Wayne Christian applauded the outcome and said the

following: “Students need to learn about fossil fuels and *real-world* energy, where it comes from, how it works, and most importantly how it creates a better world. America’s future generations don’t need a leftist agenda brainwashing them in the classroom to hate oil and natural gas. Our economy needs STEM students that understand the difference between dispatchable, reliable power and intermittent, unreliable power. Fossil fuels help power 80% of global energy, make 96% of consumer items, finance our state and national economies, and feed billions of people all over the world. The Texas State Board of Education did the right thing by rejecting radical environmentalist propaganda on ‘net zero’ and ensuring our students learn the benefits of fossil fuels.” [Read more.](#) For background, on Nov. 1, the RRC announced that as a part of the public comment process for the types of textbooks and materials Texas students will use in the coming school year, Commissioner Christian “sent a letter to the SBOE with concerns that the materials would adopt a radical environmentalist agenda promoting ‘net zero’ lessons over teaching students realistic STEM skills needed for high-paying jobs in the energy industry.” [Read the letter here.](#) Christian wrote, “Texas students don’t need to be brainwashed in class that oil and gas is evil, when our schools should be preparing them for the real world. The Lone Star State needs a challenging, unbiased, and practical approach to educating our STEM students, preparing them for in-demand, high paying jobs in Texas’ oil and gas industry.” [Read more.](#)

STATE – Judicial

Lease Terms; Cessation of Production; Shut-in Royalties – Colorado. *(Update to 6/14/21 Report)*

On Nov. 20, the Colorado Supreme Court affirmed the judgment of the Court of Appeals in [Board of County Commissioners of Boulder County v. Crestone Peak Resources Operating LLC](#) (Case No. 2023 CO 58). In this case, the Supreme Court “addresses whether a temporary shut-in necessitated by a third party’s pipeline maintenance triggered the termination of two oil and gas leases under their cessation-of-production clauses. In accordance with Colorado’s well-established tradition of interpreting each oil and gas

ease on its own terms, the court declines to adopt a universal definition for 'production' in oil and gas leases. As such, the court vacates the court of appeals' opinion to the extent it broadly adopts the commercial discovery rule to define 'production' in Colorado oil and gas leases as 'capable of producing oil or gas in commercial quantities.'" The court further explained that "Looking at the terms of the two leases before it, the court determines that the cessation-of-production clauses are triggered only when there is a permanent cessation that could be resolved by reworking or drilling operations. Therefore, the court concludes that the temporary shut-in, which could not have been resolved by reworking or drilling operations, did not trigger termination under the cessation-of-production clauses." For the case background, the Colorado Court of Appeals considered the meaning of "production" as that term is used in oil and gas leases in an appeal that "centers on one question: What constitutes 'production' under an oil and gas lease?" The Board of County Commissioners of Boulder County had sued Crestone regarding a temporary cessation in extraction, "alleging that wells subject to two of Crestone's oil and gas leases had stopped producing, and therefore that the leases had terminated." However, the district court disagreed and granted summary judgment in favor of Crestone. In affirming the lower court decision, the appellate court held "that production means capable of producing oil or gas in commercial quantities. Thus, the district court correctly concluded that Crestone's wells never stopped producing and, consequently, the leases never lapsed." [Read more.](#)

INDUSTRY NEWS FLASH

► OPEC+ Agrees to Further Oil Production Cuts.

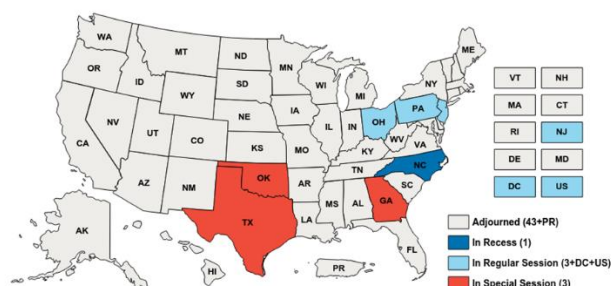
On Nov. 30, OPEC+ oil producers agreed to additional production cuts during a conference meeting. As reported by the *Oil & Gas Journal*, "Saudi Arabia agreed to extend its 1 million b/d cut through first-quarter 2024. Iraq agreed to cut 223,000 b/d, while the United Arab Emirates agreed to cut 163,000 b/d; Kuwait 135,000 b/d; Kazakhstan 82,000 b/d; Algeria 51,000 b/d; and Oman 42,000 b/d. The cuts begin Jan. 1, 2024, and run through the year's first quarter." [Read more.](#)

► **International Energy Agency Raises Global Oil Demand Forecast.** On Nov. 14, the *Oil & Gas Journal* reported that the International Energy Agency (IEA) "has raised its global oil demand forecasts for 2023 and 2024. IEA increased 2023's demand growth forecast to 2.4 million b/d from last month's 2.3 million b/d." According to the IEA, "U.S. deliveries proved more resilient than indicated by preliminary data and Chinese oil demand in September set another all-time high above 17 million b/d, fueled by a booming petrochemical sector." [Read more.](#)

► **Interior Department Data Shows New Mexico Received Highest Level of Federal Revenue from Oil and Gas Production.** As reported on Nov. 17 by the *Carlsbad Current Argus*, "More federal revenue generated by energy production came to New Mexico than any other state last year as drilling continued to surge in the state's southeast corner. Recent data from the Department of the Interior (DOI) showed New Mexico earned \$2.93 billion in federal revenue from energy production, largely oil and gas." [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Michigan, Ohio, and Pennsylvania are in regular session. The U.S. Congress is also in session.

Colorado ended its special session on Nov. 20 after sending several pieces of legislation to Democratic Gov. Jared Polis, who quickly signed them into law. The special session was called because of increasing housing and property costs. According to [CPR News](#), lawmakers passed a package of laws that will deliver

about \$430 million in tax cuts for homeowners and a larger share of tax refunds for low-income residents. State Republicans objected to the package, calling it socialism and objecting to higher-income residents paying for refunds to lower-income residents.

Texas Republican Gov. Greg Abbott [called](#) the legislature into another special session on Nov. 7, the fourth special session this year. This special session began immediately after the adjournment of the previous special session, which failed to pass the governor's legislation on school vouchers or border security. According to [The Texas Tribune](#), the school voucher issue has again stalled in the House, with lawmakers voting to remove the voucher program from a large education bill. It is unclear if Governor Abbott will continue to push the legislature to pass a school voucher law or call another special session once this session concludes on December 6.

Bill Signing Deadlines: **Michigan** Democratic Gov. Gretchen Whitmer has 14 days from presentment to act on legislation or it is pocket vetoed. **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](#), [California Assembly](#) and [Senate](#), [Colorado](#), [Connecticut](#), [Delaware](#), [Florida House](#) and [Senate](#), [Georgia](#), [Hawaii](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [New York Assembly](#) and [Senate](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#), [Oregon](#), [Rhode Island](#), [South Carolina House](#) and [Senate](#), [South Dakota](#), [Tennessee](#), [Texas House](#), [Utah](#), [Vermont](#), [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](#), [Iowa](#),

[Kansas](#), [Maine](#), [Missouri House](#), [Nebraska](#), [Nevada](#), [New Hampshire](#), [New Jersey](#), [New York](#), [North Carolina](#), [Oklahoma House](#) and [Senate](#), [South Carolina](#), [Tennessee](#), [Utah](#), [Virginia](#) and [Wyoming](#). ■

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GOVERNMENTAL AFFAIRS REPORT



Please Note: Governmental Affairs reports are not published during the holidays and will resume with the January 8, 2024 issue. Wishing you a safe, merry, and joyous holiday season and a very happy new year!



FEDERAL – Legislative

S. 3445 – Supporting Made in America Energy Act.

On Dec. 7, [S. 3445](#), known as the Supporting Made in American Energy Act, was introduced by Sen. Steve Daines (R-MT). According to Sen. Daines, the purpose of the bill is to “ensure that the United States maintains and grows its energy independence by supporting Made in America energy.” Specifically, the “bill bolsters energy independence by requiring the Department of the Interior (DOI) to hold four onshore oil and gas lease sales in the top oil and gas producing states as well as requiring two offshore oil and gas lease sales in each available area in the Gulf of Mexico and Alaska.” The states listed include Colorado, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Utah, and Wyoming, “and all other eligible states.” The bill also requires the DOI Secretary “to disclose all communications, documents and comments from the public related to the Department’s oil and gas leasing review.” [Read more.](#)

H.R. 6481 – BLM Expressions of Interest Refunds.

On Nov. 28, [H.R. 6481](#) was introduced by Rep. Harriet Hageman (R-WY). The bill would “amend the Mineral Leasing Act to require the Secretary of the Interior to reimburse the fee for an expression of interest if the expression of interest becomes inactive.” According to Rep. Hageman, the bill “seeks to incentivize the Bureau of Land Management (BLM) to resume its duty of issuing leases to oil and gas companies. This bill

makes Expression of Interest (EOI) fees paid by companies to the BLM refundable. Companies must pay these fees to be considered for BLM leases. Under current law, however, they are unable to recover these fees if they are not awarded a lease or the EOI becomes inactive. My bill will refund these fees to those companies who do not receive a lease, and will require these fees to be considered active for 5 years, as opposed to the current 3-year term.” [Read more.](#)

Congressional Letter to Treasury Secretary Regarding Hydrogen Production Tax Credits.

On Dec. 7, Congressional Democrats delivered a letter to Treasury Secretary Janet Yellen regarding hydrogen production tax credits under the 2022 Inflation Reduction Act. The letter states that “In order to limit future warming and avoid irreversible ecological damage, we must make rapid and deep reductions in greenhouse gas emissions. The IRA’s incentives for clean hydrogen and other emerging technologies offer great promise in reducing emissions in difficult-to-decarbonize sectors. As the administration finalizes rules for the IRA’s 45V Clean Hydrogen Production Tax Credit, we strongly urge you to ensure that the guidance results in a net decrease in greenhouse gas emissions.” [Read the letter here.](#)

Congressional Letter to EPA Administrator Regarding Greenhouse Gas Reporting Rule. On Dec. 13, Congressional Republicans delivered a letter to EPA Administrator Michael Regan expressing their concerns with the reporting requirement under the Methane Emissions Reduction Program (MERP) included in the 2022 Inflation Reduction Act. The letter states, that the “revisions blatantly disregard and overstep even the partisan mandates of the statute as enacted and will excessively increase the tax burden on American energy under the new MERP. The

proposal would not only radically expand the scope of emissions required to be reported by each facility under the GHGRP, but also unduly expand the number of facilities that are covered by subpart W and thus liable for the methane tax. If finalized as proposed, it is likely that the revisions would artificially overestimate US methane emissions.” The letter writers request that the “EPA should immediately reconsider this proposal if it is going to finalize a rule that will provide regulatory certainty and reduce the significant economic burden that the agency and Administration are imposing on American families and energy consumer.” [Read the letter here.](#)

Congress in Holiday Recess. As of Dec. 18, the U.S. Congress is in holiday recess, however, the U.S. Senate may remain in session during that week to hammer out a supplemental spending package as the next government funding deadline looms in early 2024. Otherwise, the Senate and U.S. House of Representatives will be back in regular session during the week of Jan. 8, 2024. [Read more.](#)

FEDERAL – Regulatory

Inflation Reduction Act Energy Credits. On Nov. 22, the U.S. Department of the Treasury and Internal Revenue Service (IRS) released a notice of proposed rulemaking “that modifies the regulations applicable to the Energy Credit under Section 48 of the Internal Revenue Code.” This proposed rule “also withdraws and repurposes portions of an August proposal on the rules governing the increased credit amount available for taxpayers satisfying prevailing wage and registered apprenticeship requirements established by the Inflation Reduction Act (IRA).” The rulemaking, *Definition of Energy Property and Rules Applicable to the Energy Credit* ([88 Fed. Reg. 82188](#)), “would impact taxpayers who invest in energy property eligible for the energy credit.” [Read more.](#) Specifically, the proposal adds “new definitions to clarify the scope of recently added qualifying property, including qualified biogas property, energy storage facilities and geothermal energy property.” The public comment period is open through Jan. 22, 2024. The Treasury Department/IRS will also be holding a public hearing in February. [Read more.](#)

EPA Methane Emissions Final Rule. To follow up our comprehensive reporting and advocacy over the past two years, on Dec. 2, the U.S. Environmental Protection Agency (EPA) finally released their final emissions rule, *Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review*. [Read more.](#) With this 1,690-page regulation ([available here](#)), the EPA 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 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).” [Access a complete EPA Fact Sheet here.](#) According to the EPA, the final rule “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.” According to an EPA press release, “Among other things, the final rule will phase in a requirement to eliminate routine flaring of natural gas that is produced by new oil wells; require comprehensive monitoring for leaks of methane from well sites and compressor stations, while giving oil and gas companies flexibility

to use low-cost and innovative methane monitoring technologies; and establish standards that require reductions in emissions from high-emitting equipment like controllers, pumps, and storage tanks.” The final rule also includes a “Super Emitter Program” that empowers “third-party experts” to detect methane releases from oil and gas wells. [Read more](#). For background, the EPA initially released a proposed rule in 2021 followed by a supplemental proposal in November 2022 “with much stress on reducing greenhouse gas emissions and protecting human health.” Throughout 2023, industry groups, including AAPL, as well as state regulators submitted formal comments to the EPA to warn of impractical, unworkable, or cost prohibitive provisions, as well as possible legal challenges for EPA overreach. [Read more](#). As reported by the *Oil & Gas Journal*, “Several changes in the final rule are intended to address the practical issues raised by industry, such as time needed to meet the new standards and to make repairs when needed.” The effective date for compliance at new, modified, and reconstructed operations was amended to allow for a phase-in period. “For new oil wells, the provisions to minimize flaring of associated gas will be phased in over a 2-year period. For process controllers — formerly called pneumatic controllers — the standard will be zero emissions, but there will be a 1-year phase-in period. For existing wells — constructed prior to Dec. 6, 2022 — there will be a longer transition. First, states will be given 2 years to submit state implementation plans for existing oil and gas operations, and states generally will be obligated to require compliance no later than 3 years after submission of the plan, which means a transition of as much as 5 years. Routine flaring will be phased out for most operations while allowances are made for temporary flaring or venting for various reasons, such as safety during emergency work. In recognition of the more difficult cost-benefit balance of small operations, routine flaring will be allowed for a subcategory of wells emitting no more than 40 tons/year of methane.” Finally, for the “super emitter” program for large leaks, “which will require operators notified of a leak detection to investigate and make repairs to meet EPA standards” [...] Third parties will be allowed to report large leaks to EPA. To maintain quality control, EPA will have to certify third parties for that kind of work and will evaluate the data that third parties

provide — an oversight role to keep the federal agency in control of enforcing federal standards.” [Read more](#). Following the rule release, the API and IPAA issued statements that generally support methane reduction and acknowledge the work the oil and gas industry has already done and continues to do to reduce emissions yet also raised concerns about how the rule might affect domestic energy production. However, numerous oil and gas producers have come out in support of methane emissions reductions, ending routine flaring except in necessary situations, and an overall commitment to achieve net zero goals in the industry. During the recent COP28 international climate change summit — where the EPA final rule was announced — the Global Decarbonization Accelerator (GDA) was launched, which counts among it 50 companies, “representing over 40 percent of global oil production” who signed on to the GDA’s Oil and Gas Decarbonization Charter, “committing to zero methane emissions and ending routine flaring by 2030, and to total net-zero operations by 2050 at the latest.” Some of those companies include oil and gas majors ExxonMobil, BP, Equinor, EQT, and Occidental Petroleum, among others. [Read more](#). To learn more about the final rule, the EPA has provided resources on their regulatory website as well as advanced announcement of 2024 training sessions to provide an overview of the final rule for various stakeholders, accessible here: [Read more](#).

EPA Oil and Gas Industry Pollutants Proposed Rule.

On Dec. 1, the EPA published a proposed rule, *Removal of Affirmative Defense Provisions From the National Emission Standards for Hazardous Air Pollutants for the Oil and Natural Gas Production Facility and Natural Gas Transmission and Storage Facility Source Categories* ([88 Fed. Reg. 83889](#)), that “is proposing amendments to the National Emission Standards for Hazardous Air Pollutants for the oil and gas industry issued under the Clean Air Act. Specifically, the EPA is proposing to remove the affirmative defense provisions of the National Emission Standards for Hazardous Air Pollutants for both the Oil and Natural Gas Production source category and the Natural Gas Transmission and Storage source category.” The EPA provides in the rulemaking that the “removal of the provisions does not

have a material impact on the obligation for sources to comply with current existing standards, or the ability of Federal or State agencies to enforce standards [...] The removal of the affirmative defense provisions does not affect that burden because sources will still be required to report malfunctions that could have resulted in a failure to meet the standards. Since the option to invoke an affirmative defense was voluntary, there may be a negligible cost savings for reporting malfunctions by removing these provisions.” The public comment period is open through Jan. 16, 2024. [Read more.](#)

BLM Information Collection. On Dec. 11, the Bureau of Land Management (BLM) published a notice of information collection, *Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Oil Shale Management* ([88 Fed. Reg. 85908](#)). According to the BLM, the information they seek from the public “applies to the exploration, development, and utilization of oil shale resources on the BLM-managed public lands.” The public comment period is open through Jan. 10, 2024. [Read more.](#)

BLM Oil and Gas Lease Sale – Wyoming. On Dec. 13, 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 Land Withdrawal – Utah. On Dec. 14, the BLM published a *Notice of Proposed Withdrawal Extension, Public Meetings and Correction for Segments of the Colorado, Dolores, and Green River Corridors; Utah* ([88 Fed. Reg. 86673](#)). The notice provides that at the request of the BLM, “the Secretary of the Interior proposes to extend Public Land Order (PLO) No. 7618, which withdrew public lands from location and entry under the United States mining laws, subject to valid existing rights, to protect the recreational, scenic, cultural, riparian, and fish and wildlife values of the

Colorado, Dolores, and Green River Corridors, for an additional 20-year term. Lands included in PLO No. 7618 have been surveyed or resurveyed and corrected. Their official land description has been changed, requiring that the land descriptions be modified and corrected to include lands that were inadvertently not listed in the original PLO. The acreage has been changed from 111,895 acres to 109,287 acres to reflect the updated land description. The land would remain closed to location and entry under the U.S. mining laws. This notice provides a 90-day public comment period and announces that the BLM will host one in-person public meeting in Moab and one virtual meeting regarding this proposal.” The public comment deadline is March 13, 2024. The meetings will be held on Jan. 16 and Jan. 18, 2024. [Read more.](#)

USFS/BLM Lands Withdrawal – Colorado. On Dec. 8, the U.S. Forest Service (USFS) and BLM announced that they are “requesting the Secretary of the Interior withdraw approximately 224,713 acres of lands and interests administered by the USFS and BLM from all forms of entry, appropriation, and disposal under the public land laws; location, entry, and patent under the mining laws; and operation of the mineral leasing, mineral materials, and geothermal leasing laws, subject to valid existing rights.” [Read more.](#) According to the notice, “If the Secretary of the Interior were to grant the withdrawal, federal lands and interests in the withdrawal application area would be closed to sale or exchange, and no new mining claims or mineral or geothermal leases would be authorized for a term up to 20 years. Non-federal lands and interests would not be subject to the withdrawal unless they are subsequently acquired by the federal government. The purpose of the requested withdrawal is to protect and preserve cultural, agricultural, ranching, wildlife, air quality, recreational, ecological, and scenic values in the Thompson Divide area of Colorado from potential impacts that may arise from mineral exploration and development. Additionally, closing federal lands in the withdrawal application area to sale and exchange would retain a contiguous landscape resulting in more efficient and effective management of USFS and BLM administered lands. The withdrawal application area includes portions of the White River National Forest, Grand Mesa,

Uncompahgre, and Gunnison National Forest, and BLM Colorado River Valley Field Office, BLM Gunnison Field Office, and BLM Uncompahgre Field Office, in Pitkin, Gunnison, and Garfield Counties, Colorado.” The public comment period is open through Jan. 8, 2024. [Read more](#). You may access the [public comment portal webform here](#). The USFS and BLM also announced a virtual public meeting for Dec. 18. [Read more](#).

FEDERAL – Judicial

Petition to Phase out Oil and Gas Extraction on Public Lands – District of Columbia. On Dec. 1, in *In re Ursa Operating Co.* (Case No. 22-1729), the U.S. Court of Appeals, Third Circuit, on appeal from the U.S. District Court for the District of Delaware, addressed a case arising from the bankruptcy of Ursa Operating Company, LLC and its affiliates, “an extractor and seller of oil and gas in the western United States.” Ursa operated wells on leased property owned by the plaintiffs who alleged “that Ursa wrongfully retained mineral royalties due under the leases. They contend those funds are their property and therefore not part of Ursa’s bankruptcy estate.” Here, the court found the plaintiffs were “correct that under Colorado law they have a real property interest in unpaid royalties. And Colorado’s constructive trust doctrine supports imposition of a constructive trust if a factfinder concludes that Ursa was unjustly enriched at the [plaintiffs’] expense.” The lower court and Bankruptcy Court had concluded that “underpayment claims should be classified as unsecured non-priority claims because the underpaid royalties retained by Ursa are property of its estate.” But here, the court held that a constructive trust was an available remedy “Because Ursa would be unjustly enriched if it were permitted to retain the benefit of the property that belongs to the Royalty Claimants.” Accordingly, the court vacated the lower court order and sent the case back to the Bankruptcy Court for further proceedings but also identified the case as “not precedential,” so although instructive to similar litigants, the holding is fact-specific and not meant to be relied upon in future unrelated cases. [Read more](#).

STATE – Legislative

Carbon Capture and Sequestration – Ohio. On Dec. 6, Rep. Monica Robb Blasdel (R) introduced HB 358. The bill provides that the “General Assembly declares its intent to establish a comprehensive regulatory framework to ensure the safe and secure deployment of carbon capture and storage technologies in the state, which encompass point-source carbon dioxide capture from large emissions sources and direct air capture, and the geologic sequestration for long-term carbon dioxide storage into reservoirs of geologic formations.” Senate companion bill, [SB 200](#), was introduced by Sen. Tim Schaffer (R). No other details or provisions are provided in the bills. [Read more](#).

STATE – Regulatory

Renewable Energy Strategic Water Supply – New Mexico. On Dec. 5, New Mexico Governor Michelle Lujan Grisham (D) announced “a first-of-its-kind strategic water supply to increase drought resilience and advance clean energy production and storage. The strategic water supply will support the nation’s transition to renewable energy by providing resources for water-intensive processes around creating green hydrogen, storing energy produced by wind and solar, and manufacturing electric vehicles, microchips, solar panels, and wind turbines, for example.” [Read more](#). Making the announcement at the this year’s COP28 international climate change summit, Gov. Lujan Grisham said, “Through a \$500 million investment, New Mexico will purchase treated brackish and treated produced water to build the strategic water supply. In early 2024, the New Mexico Environment Department will issue guidance and seek proposals from companies interested in pursuing a contract.” [Read more](#).

Public Lands Commissioner Extends Ban on Oil and Gas Leasing and Drilling on State Lands Near Chaco – New Mexico. On Dec. 14, New Mexico Commissioner of Public Lands Stephanie Garcia Richard announced, “that she is extending her ban on new oil, gas and mineral leasing on 72,776 acres of state lands near Chaco Culture National Historical Park through December 31, 2043.” [Read more](#). “In one of her

first acts as Land Commissioner in 2019, Commissioner Garcia Richard placed a moratorium on oil, gas and mineral leasing on state lands near Chaco, which was originally set to expire at the end of this year. That order also established the Chaco Canyon Working Group to advise the agency on appropriate uses of state lands in the Greater Chaco region. U.S. Department of Interior Secretary Deb Haaland issued a similar leasing 20-year ban on federal lands surrounding Chaco in June of this year.” [Read more.](#)

NMED Regulatory Amendments – New Mexico.

As a follow up to our prior reporting, on Dec. 7, the New Mexico Environment Department (NMED) announced an update to the Nov. 17, 2023 Environmental Improvement Board public hearing ([accessible here](#)) to consider the NMED proposal to amend 20.2.77 NMAC, New Source Performance Standards; 20.2.78 NMAC, Emission Standards for Hazardous Air Pollutants; and 20.2.82 NMAC, Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants. The amendments changed the through-date to June 28, 2023, as indicated in the rulemaking amendments. [Read more.](#) According to the NMED, the board “deliberated on the hearing record and unanimously adopted the Department’s proposal.” [Access the NMED Rulemaking website here for more information.](#) The NMED provided that the effective date of these amendments is Dec. 19, 2023. [Read more.](#)

Comptroller of Public Accounts Amendment to Definition of Petroleum Products for Property Tax Valuation – Texas. On Dec. 8, the Texas Comptroller of Public Accounts published a regulatory amendment to [Rule §9.4201](#) of the Administrative Code under Chapter 9 (Property Tax Administration), Subchapter I (Valuation Procedures). The Comptroller proposes [new §9.4038](#), “concerning definition of petroleum products. The new section replaces existing §9.4201, concerning definition of petroleum products, which the Comptroller is proposing for repeal to improve the clarity and organization of Subchapter I. The section is also updated to better reflect the list of products that fall under this definition.” As noted in the regulatory preamble, “The Comptroller provides the definition of

petroleum products to assist appraisal districts in the administration and implementation of Tax Code, [§11.251](#) (Tangible Personal Property Exempt). The products defined by this section are not exempt under the ‘freeport’ exemption provided by Tax Code, §11.251 and [Texas Constitution, Article VIII, Section 1-j](#). The public comment period is open through Jan. 7, 2024. To learn more about the amendment and how to submit a public comment, [Read more.](#)

Texas Railroad Commissioner Wayne Christian Blasts Biden Administration’s New EPA Emissions Rule.

Related to the item above regarding the new EPA emissions regulations, on Dec. 5, Texas Railroad Commissioner Wayne Christian issued a statement critical of these “onerous methane rules.” Christian said, “While costs for hard-working Americans are up nearly \$11,000 this year everywhere from the gas pump to the grocery store, President Biden’s solution to inflation is to increase regulations that will make American oil and gas more expensive. Petroleum helps make more than 96% of everyday consumer items like plastics, food, medicine, and more. These new rules on U.S. oil and natural gas producers will certainly drive those prices up. These new rules are likely to have a disproportionate impact on smaller producers, which make up more than 83% of U.S. production. At a time when producers are facing financial drought from Wall Street and political headwinds from Washington Democrats, that last thing the industry needs is more bureaucratic red tape stifling business. It’s hypocritical to kill clean fossil fuel jobs here in America claiming it ensures a clean environment, and then beg our foreign adversaries to produce more using much less environment-friendly methods. Americans are struggling with high prices and the answer to that strife is simple—more U.S. oil and gas production.” [Read more.](#)

[STATE – Judicial](#)

Permitting and Regulation of Oil and Gas Operations – West Virginia.

On Nov. 1, the Intermediate Court of Appeals of West Virginia ruled “that only the state has authority over the permitting and regulation of oil and gas operations in the state, reversing a local circuit court decision concerning a proposed natural gas well in Weirton.” In [SWN Production Company, LLC v. City](#)

[of Weirton](#) (Case No. 22-ICA-830), a lower court order held that the city of Weirton's "municipal zoning ordinances were not preempted by either the West Virginia Oil and Gas Act or the Natural Gas Horizontal Well Control Act ('Horizontal Well Act')." On appeal, SWN argued that the court "erred by failing to recognize that the Horizontal Well Act delegates 'sole and exclusive authority' over all aspects of the permitting and location of oil and gas exploration and production activities to the Secretary of the West Virginia Department of Environmental Protection ('WVDEP')." In reversing the trial court order, in favor of SWN, the appellate court wrote that "Once the WVDEP issued a permit, the City cannot hinder SWN's ability to begin drilling. The City's approval scheme is in direct conflict with the Horizontal Well Act which vests WVDEP with 'sole and exclusive authority' to regulate the 'permitting' and 'location' of horizontal gas wells." The court further explained that this "language cannot be reconciled with the City's position that a municipality retains the authority to require zoning approval for an oil or gas well that has already been approved under the state's permitting program." [Read more.](#)

INDUSTRY NEWS FLASH

► **Texas Extends Growth in Upstream Oil and Gas Industry Employment.** On Dec. 6, "Newly-released data from the Texas Workforce Commission indicates that upstream oil and natural gas employment grew by an additional 2,200 jobs in October. These new numbers extend the strength of 2023's job growth to date, with 16,500 jobs added so far this year." According to Todd Staples, President of the Texas Oil & Gas Association, "In spite of turbulent economic times and increasing geopolitical tensions, Texas' oil and natural gas industry continues to grow. Industry remains committed to continuing to produce affordable reliable energy to provide energy security for our nation and our allies around the world." [Read more.](#)

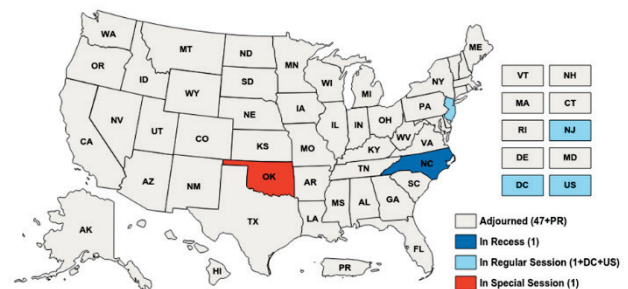
► **United Nations COP28 Climate Summit Agreement on Transition from Fossil Fuels.** Last week, nearly 200 countries "agreed to a deal that calls for a transition away from fossil fuels." As reported by

Rigzone, "The agreement calls for countries to quickly shift energy systems away from fossil fuels in a just and orderly fashion, qualifications that helped convince the skeptics. Under the deal, countries also are called to contribute to a global transition effort — rather than being outright compelled to make that shift on their own." However, the deal — which includes the United States — only provides broad contours and does not bind any nation with specific enforcement authority. [Read more.](#)

► **Occidental to Acquire CrownRock LP in \$12 Billion Deal.** On Dec. 11, Occidental Petroleum Corp. announced a "deal to pay \$12.0 billion for CrownRock LP, Midland, Tex., a privately held operator with more than 94,000 acres in the Permian basin. If completed, the acquisition will grow Occidental's Permian basin production by nearly 30%. Occidental said the cash-and-stock agreement, which is scheduled to close in first-quarter 2024, will add an estimated 170,000 boe/d to its 2024 production estimates." [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Ohio and Pennsylvania adjourned their 2023 legislative sessions on December 13. The following states are expected to convene for the 2024 legislative session on the dates provided: **Kentucky, Mississippi, and Pennsylvania** (January 2), **California, Missouri, Nebraska, and New York** (January 3), **Arizona, Idaho, and Kansas** (January 8).

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](#), [California Assembly](#) and [Senate](#), [Colorado](#), [Connecticut](#), [Delaware](#), [Florida House](#) and [Senate](#), [Georgia](#), [Hawaii](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [New York Assembly](#) and [Senate](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#), [Oregon](#), [Rhode Island](#), [South Carolina House](#) and [Senate](#), [South Dakota](#), [Tennessee](#), [Texas House](#), [Utah](#), [Vermont](#), [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](#), [Maine](#), [Maryland](#), [Missouri House](#) and [Senate](#), [Nebraska](#), [Nevada](#), [New Hampshire](#), [New Jersey](#), [New York](#), [North Carolina](#), [Oklahoma House](#) and [Senate](#), [South Carolina](#), [Tennessee](#), [Utah](#), [Virginia](#), [Washington](#) and [Wyoming](#). ■

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