

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,

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