

GOVERNMENTAL AFFAIRS REPORT

Highlights At-A-Glance

FEDERAL – Legislative

H.R. 21 – Strategic Production Response Act.

On January 9, [H.R. 21](#), known as the Strategic Production Response Act, was introduced by Rep. Cathy McMorris Rodgers (R-WA). The bill would “provide for the development of a plan to increase oil and gas production under oil and gas leases of Federal lands under the jurisdiction of the Secretary of Agriculture, the Secretary of Energy, the Secretary of the Interior, and the Secretary of Defense in conjunction with a drawdown of petroleum reserves from the Strategic Petroleum Reserve.” In short, the bill “would prevent the Department of Energy from releasing oil from the country’s Strategic Petroleum Reserve (SPR) until the administration develops a plan to increase the percentage of federal lands that are leased for new oil and gas production.” [Read more](#). While Energy Secretary Jennifer Granholm expressed concerns about the bill [in a letter to Congressional members](#) – particularly the need for emergency SPR drawdowns – Rep. McMorris Rodgers pushed back saying the measure would have “absolutely no effect” on the department’s emergency authorities regarding the oil reserve. [Read more](#).

H.R. 22 – Protecting America’s Strategic Petroleum Reserve from China Act.

On January 12, the first bill to pass the now Republican-led House telegraphed the new majority’s intentions to support the traditional oil and gas industry, domestic energy security, and develop abundant American natural resources. [H.R. 22](#), known as the Protecting America’s Strategic Petroleum Reserve from China Act, “prohibits the sale and export of crude oil from the Strategic Petroleum Reserve (SPR) to China. Specifically, the bill prohibits the Department of Energy (DOE) from selling petroleum products (e.g., crude oil) from the SPR to any entity that is under the ownership, control, or

influence of the Chinese Communist Party. Further, DOE must require as a condition of any sale of crude oil from the SPR that the oil not be exported to China.” According to bill sponsor, Cathy McMorris Rodgers (R-WA), “To date, President Biden has released more from the SPR than all U.S. presidents in history combined. Millions of barrels of that oil have gone to China, which now has the world’s largest government-controlled stockpile of oil. Draining our strategic reserves for political purposes and selling it to China is a significant threat to our national and energy security. This must be stopped, which is why I’m proud to join my Republican colleagues in passing H.R. 22, one of the most bipartisan votes on an energy bill in many years and multiple congresses.” [Read more](#).

H.R. 98 – Federal Land Freedom Act. On January 9, Rep. Andy Biggs (R-AZ) introduced [H.R. 98](#), known as the Federal Land Freedom Act. According to Rep. Biggs, “This legislation would empower states to control the development and production of all forms of energy on all available federal land within their state boundaries. It would also cut red tape that hinders a state’s ability to develop energy resources on federal land.” [Read more](#).

Permian Basin Congressman Appointed to House Energy and Commerce Committee.

Rep. August Pfluger (R), whose district includes Midland and Odessa, has been appointed to the House Energy and Commerce Committee for the 118th Congress. As reported, “With the appointment, Pfluger becomes the first West Texan to serve on the committee in nearly 50 years and the first member of Congress to represent Midland and Odessa on the committee.” Pfluger has been a vocal supporter of the oil and gas industry, domestic energy independence, and continued development of our natural resources. AAPL Governmental Affairs has already developed

a relationship with Rep. Pfluger's legislative staff, so this appointment is welcome news for our members. [Read more](#). In related news, Rep. Cathy McMorris Rodgers (R-WA) was chosen to serve as Chair of that influential committee, and Rep. Bruce Westerman (R-AR) will serve as Chair of the Natural Resources Committee. [Read more](#).

Federal Windfall Profits Tax Off the Table. In positive news for AAPL and its members, the much talked Biden administration call to impose a federal windfall profits tax on oil and gas producers is off the table for now. Speaking to an audience at a United Arab Emirates energy summit last week, Amos Hochstein, the White House's special envoy for energy security, said that the tax proposal is not supported by the Biden administration and is "off the table" at this moment. [Read more](#).

FEDERAL – Regulatory

Federal Greenhouse Gas Emissions Policy. On January 9, the White House Council on Environmental Quality (CEQ) issued guidance for federal agencies "to consider mitigation measures for greenhouse gases to the greatest extent possible when permitting new projects." [Read more](#). While the guidance, pursuant to the National Environmental Policy Act review process, is not a rulemaking, its purpose, according to the White House is "to help Federal agencies better assess and disclose climate impacts as they conduct environmental reviews, delivering more certainty and efficiency in the permitting process for clean energy and other infrastructure projects." [Read more](#). The notice of interim guidance, *National Environmental Policy Act Guidance on Consideration of Greenhouse Gas Emissions and Climate Change* (88 Fed. Reg. 1196), is open for public comment, and according to the CEQ, they intend "to either revise the guidance in response to public comments or finalize the interim guidance." The public comment period is open through March 10, 2023. [Read more here to submit a comment](#). As reported by the *Oil & Gas Journal*, the "Biden administration is reversing a Trump administration decision that withdrew a 2016 guidance on greenhouse gases (GHGs) issued under

President Obama. The Biden CEQ couches its new guidance in the rhetoric of crisis that activists used on global warming." [Read more](#). You may also access a detailed analysis of the CEQ guidance from law firm Vinson & Elkins [here](#).

Federal Trade Commission Proposed Rulemaking on Worker Non-Compete Agreements. On January 19, the Federal Trade Commission (FTC) published a proposed rulemaking, *Non-Compete Clause Rule* (88 Fed. Reg. 3482), that "would, among other things, provide that it is an unfair method of competition for an employer to enter into or attempt to enter into a non-compete clause with a worker; to maintain with a worker a non-compete clause; or, under certain circumstances, to represent to a worker that the worker is subject to a non-compete clause." The term "worker" would also apply to an independent contractor or sole proprietor who provides a service to a client or customer. The rule, if implemented, "would bar employers from entering into noncompete agreements with their workers, and require employers to rescind existing noncompete restrictions with current and former workers. The proposed rule supersedes state laws that are less protective of employees, but keeps the state law that provides employees greater protection. The proposed rule excludes franchisees from the definition of 'worker' and has a single, limited exception that applies to the sale of a business." [Read the FTC Press Release here](#). Employment law firm Troutman Pepper adds that, "the proposed rule does not apply to customer or employee nonsolicitation provisions or generally to confidentiality or nondisclosure agreements. The proposed rule applies a functional test for determining whether a clause is covered by the rule." The public comment period is open through March 20, 2023. [Read more](#). As reported by the American Society of Association Executives (ASAE), "Approximately one in five American workers – roughly 30 million people – are bound by a non-compete clause that prevents the employee from working for a competing employer or starting a competing business, typically within a certain geographic area and period of time after the employee's employment ends." And the ASAE further notes, that the FTC "estimates that the proposed rule

would increase American workers' earnings between \$250 billion and \$296 billion per year." [Read more.](#)

Office of Natural Resources Revenue; Federal Oil and Gas Valuation Information Collection. On January 9, the Interior Department's Office of Natural Resources Revenue (ONRR) published a notice of information collection, *Agency Information Collection Activities: Federal Oil and Gas Valuation; OMB Control Number 1012-0005* ([88 Fed. Reg. 1290](#)). With this notice, the ONRR "is proposing to renew an information collection." The "ONRR seeks renewed authority to collect information necessary to (1) verify proper reporting and payment of royalties and other amounts due pursuant to Federal oil and gas leases; (2) determine requests for prepayment or accounting and auditing relief for certain marginal properties; and (3) determine requests to exceed transportation and processing allowance limits. ONRR uses form ONRR-4393 (Request to Exceed Regulatory Allowance Limitation) as part of these information collection requirements." The public comment period is open through February 8, 2023. [Read more.](#)

BLM Lease Sale – Montana; Dakotas. On January 6, the Bureau of Land Management (BLM) announced that "the Montana-Dakotas State Office is initiating a 30-day scoping period to receive public input on 52 parcels in Montana and North Dakota totaling 20,951 acres that may be included in an upcoming lease sale." Per the BLM, the "lease sales that may be offered from these parcels would include updated fiscal provisions authorized in the Inflation Reduction Act: Minimum bids for all offered parcels will be \$10 per acre, an increase from the \$2 per acre minimum bid set in 1987; Royalty rates will be 16.67 percent, up from the previous minimum of 12.5 percent; and Rental rates will be \$3 per acre for the first two years, \$5 per acre for years three through eight, and \$15 per acre in years nine and ten. Prior to the Inflation Reduction Act, rental rates were \$1.50 per acre for the first five years and \$2 per acre for each year thereafter, rates originally set in 1987." The public comment period is open through February 9, 2023. [Read more.](#)

BLM Lease Sale – New Mexico. On January 6, the BLM announced that the "New Mexico State Office released an environmental assessment analyzing 45 parcels (10,123.91 acres) for the proposed May 2023 Competitive Oil and Gas Lease Sale. These include 26 parcels located within Cheyenne County, Kansas (6,844.42 acres) and 19 parcels located within Eddy, Lea, and Chaves Counties, New Mexico (3,279.49 acres)." The release of the BLM environmental assessment starts a 30-day public comment period, that will end on February 6, 2023. [Read more.](#)

BLM Draft Resource Management Plan and Environmental Impact Statement – North Dakota. On January 20, the BLM published a *Notice of Availability of the Draft Resource Management Plan and Draft Environmental Impact Statement for the North Dakota Field Office* ([88 Fed. Reg. 3757](#)). The notice states that the BLM "has prepared a draft resource management plan (RMP) and draft environmental impact statement (EIS) for the North Dakota Field Office and by this notice announces the opening of the comment period on the Draft RMP/EIS. This notice also announces the comment period on the BLM's proposed area of critical environmental concern (ACEC) within the RMP area." According to the BLM, "The planning area includes the entire state of North Dakota and encompasses approximately 58,500 acres of BLM-managed public land and 4.1 million acres of BLM-managed mineral estate." The notice also opens up a comment period as noted. [Read more.](#)

BLM Solar Energy Development and Programs. The BLM has announced that it "is developing an updated plan to guide responsible solar energy development on public lands through an [updated Solar Programmatic Environmental Impact Statement](#), which will help accelerate and continue momentum for the clean energy economy. As part of its ongoing effort to support responsible development of renewable energy on public lands, the Bureau of Land Management is holding a series of public scoping meetings to solicit feedback on the recently [announced](#) programmatic environmental impact statement for the BLM's utility-scale solar energy planning. The BLM is considering

updates to its 2012 [Western Solar Plan](#) that included six southwestern states—Arizona, California, Colorado, Nevada, New Mexico, and Utah—and is seeking comment regarding expanding its solar planning to include five additional states: Idaho, Montana, Oregon, Washington, and Wyoming.” The BLM has provided information for the virtual meetings and scheduled in-person meetings in multiple states. [Read more.](#)

BLM Resource Advisory Council Meetings – Colorado. On January 10, the BLM published a notice, *Northwest Resource Advisory Council Schedule of Quarterly Public Meetings, Colorado* ([88 Fed. Reg. 1402](#)). According to the notice, the Northwest Colorado Resource Advisory Council (RAC) will meet in 2023 as follows: “The RAC will host a field tour on January 25 and a meeting on January 26. The RAC will host a field tour on June 21 and a meeting on June 22. The RAC will host a field tour on October 4 and a meeting on October 5. All field tours will be held from 10 a.m. to 4 p.m. but may conclude earlier depending on the needs of the group. All meetings will be held from 8 a.m. to 3 p.m. All field tours and meetings are open to the public.” [Read more.](#)

BLM Information Collection to Cross Private Lands. On January 12, the BLM published a notice of information collection, *Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Information Required To Cross Private Land for Access to BLM Lands* ([88 Fed. Reg. 2117](#)). According to the BLM, this “form will gather information from the public that is required by private landowners in order to cross private lands in order to access BLM lands. The information is necessary to help ensure the accountability of those seeking to cross private lands in order to access BLM public lands.” The public comment period is open through February 13, 2023. [Read more.](#)

Interior Department Orphan Wells Program. (*Update to 11/28/22 Report*) On January 10, the Interior Department announced that Sec. Deb Haaland “issued a Secretary’s Order to establish an Orphaned

Wells Program Office to ensure effective, accountable and efficient implementation of President Biden’s Bipartisan Infrastructure Law’s historic investment in orphaned well clean up.” The new office will “ensure timely and transparent implementation of the new program and to enable better communication with states, Tribes and other partners.” For background, last year’s infrastructure bill allocated a \$4.7 billion investment in plugging and capping orphaned wells. As noted by the Interior Department, those funds are “divided into three programs: \$4.3 billion to be used to plug orphaned wells on state and private lands; \$250 million to cap orphaned wells on public lands, including in national parks, national forests, and wildlife refuges; and \$150 million to cap orphaned wells on Tribal lands.” [Read more.](#)

Lesser Prairie-Chicken Interior Department Rulemaking. (*Update to 12/12/22 Report*) On January 12, House and Senate Republicans sent a letter to Interior Secretary Deb Haaland asking the Interior Department to extend the effective date for a final rule listing the Lesser Prairie-Chicken under the Endangered Species Act. The lawmakers write, “There is no question that this listing will hurt our nation’s agricultural economy, hinder our oil and gas independence, increase utility costs, and prevent the development of renewable energy. If the goal of the rule is to conserve the habitat of the LPC, the Service should delay the effective date. The current plan to allow the final rule to become effective in less than 60 days after its publication severely limits the choices of those who can actually promote and protect the bird. We strongly urge you to delay the effective date to April 1, 2023.” [Read the letter here.](#) For background on our prior reporting and resource availability for public comment, on November 25, 2022, the Interior Department’s U.S. Fish and Wildlife Service (FWS) issued a final rule “listing two Distinct Population Segments (DPS) of the lesser prairie-chicken under the Endangered Species Act (ESA).” According to the FWS rule, *Endangered and Threatened Wildlife and Plants; Lesser Prairie-Chicken; Threatened Status With Section 4(d) Rule for the Northern Distinct Population Segment and Endangered Status for the Southern Distinct Population Segment* ([87 Fed. Reg.](#)

[72674](#)), “We determine threatened status for the Northern DPS and endangered status for the Southern DPS. This rule adds the DPSs to the List of Endangered and Threatened Wildlife. We also finalize a rule under the authority of section 4(d) of the Act that provides measures that are necessary and advisable to provide for the conservation of the Northern DPS.” As reported by the *Carlsbad Current Argus*, “The lesser prairie chicken was to be listed under the highest class of protections ‘endangered’ in a southern population segment covering southeast New Mexico and West Texas, the announcement read, and ‘threatened’ in the northern segment covering parts of northern Texas, Colorado, Oklahoma and Kansas. Industrial development like oil and gas extraction in the Permian Basin region, an area known as the U.S.’ busiest oilfield, along with agricultural land uses were known as primary threats to the bird and led to the listing.” *Natural Gas Intelligence* quoted an FWS official who said, the Southern DPS, which includes eastern New Mexico and the southwestern Texas Panhandle, “is in danger of extinction.” And the Northern DPS, which encompasses southeastern Colorado, south-central to western Kansas, western Oklahoma and the northeastern Texas Panhandle “is likely to become endangered in the foreseeable future.” Further, “A rule also is being finalized by USFWS to conserve the Northern DPS habitat for lesser prairie-chicken ‘while allowing greater flexibility for landowners and land managers.’” [Read more](#). The FWS also said it “continues to work with stakeholders to develop voluntary conservation agreements that will protect the lesser prairie-chicken and the native grasslands on which it depends while assuring that oil and gas and renewable energy development, ranching, agriculture and other activities continue.” The rule is effective January 24, 2023, unless the Interior Department agrees to extend the implementation date. [Read more](#).

Interior Department Office of Natural Resources Revenue. On January 17, the Interior Department’s Office of Natural Resources Revenue (ONRR) released its annual penalty inflation adjustment for royalty reporting and other violations. The final rule, *2023 Civil Monetary Penalty Inflation Adjustments*

([88 Fed. Reg. 2520](#)), increases the maximum civil monetary penalty dollar amounts for each of the violation categories as noted in the rule, which is effective as of January 13, 2023. [Read more](#).

Interior Department Offshore Renewable Energy Regulatory Authority. On January 17, the Interior Department announced, “the transfer of regulations governing offshore renewable energy activities – including workplace safety and environmental compliance – from the Bureau of Ocean Energy Management (BOEM) to the Bureau of Safety and Environmental Enforcement (BSEE).” According to Principal Deputy Assistant Secretary for Land and Minerals Management Laura Daniel-Davis, “This rule advances regulatory clarity and transparency for the offshore wind industry. It allows the bureaus to focus on ensuring that future clean energy development and operations continue to occur in a safe and environmentally responsible manner.” The Interior Department noted that this action “does not make substantive changes to current regulatory requirements, nor does it impose additional regulatory burdens.” [Read more](#).

U.S. Geological Survey New Web Portal for Borehole Data. On January 18, the U.S. Geological Survey (USGS) announced the creation of a new web portal for access to critical borehole data. Per the USGS, “This application, named the National Index of Borehole Information (NIBI), will allow natural-resource managers, industry and researchers to discover and access borehole - and core sample holdings from the USGS and state geological surveys through a single portal.” Lindsay Powers, program coordinator for the USGS National Geological and Geophysical Data Preservation Program, said, “The National Index of Borehole Information is a natural complement to the data- and sample preservation work with the state geological surveys. Whether you’re looking for critical-mineral potential, studying climate conditions, or tracking groundwater quality, you won’t have to go to a dozen different sites to find what you’re looking for. You’ll be able to discover these resources in one place.” As the USGS notes, “The drilling process is very expensive and may not be repeatable, so

preserving and providing access to these data and materials is vital to provide opportunities for reuse in the future. Cores provide a wealth of information about natural resources like oil, gas, critical minerals, water, past climate conditions or even the potential for storing carbon dioxide.” [Read more.](#)

STATE – Legislative

Administrative Decisions – Alaska. On January 19, HB 32 was introduced by Rep. Thomas “Tom” McKay (R). The bill relates to “appeals of administrative decisions related to oil or gas; [and] establishing an oil and gas production working group.” [Read more.](#)

Discharge Penalties – Alaska. On January 19, HB 33 was introduced by Rep. Andy Josephson (D). The bill relates to “penalties for discharges of oil and other pollution violations.”

Well Plugging – Colorado. On January 19, HB23-1069 was introduced by Rep. Karen McCormick (D). The bill would create the biochar in oil and gas well plugging working advisory group in the Oil and Gas Conservation Commission. “The work group's purpose is to make recommendations for the development of a pilot program to study the use of biochar in the plugging of oil and gas wells.” [Read more.](#)

Carbon Sequestration – Indiana. On January 19, SB 451 was introduced by Sen. Jon Ford (R). The bill provides provisions regarding the carbon sequestration pilot project. [Read more.](#)

Severance Tax – Mississippi. On January 10, HB 383 was introduced by Rep. Brent Powell (R). The bill would “extend the date of the repealers on those provisions that establish a temporarily reduced rate for the levy and assessment of severance taxes on the initial oil and natural gas produced from certain horizontally drilled wells and horizontally drilled recompletion wells.” [Read more.](#)

Severed Estates – Mississippi. On January 16, HB 742 was introduced by Rep. Bob Evans (R). The bill provides that mineral estates separated from the

surface estate shall revert to the owner of the surface estate after ten years of nonproduction. [Read more.](#)

Notarial Services – Mississippi. On January 16, HB 821 was introduced by Rep. Shane Aguirre (R). The bill provides for instances where a notary public may charge for services and sets forth requirements for the commission of a notary public. [Read more.](#)

County-Owned Property – Mississippi. On January 16, SB 2312 was introduced by Sen. Chris Johnson (R). The bill establishes a competitive bidding process with right of first refusal for the lease or sale of county-owned property. [Read more.](#)

Orphaned Wells – Mississippi. On January 16, SB 2435 was introduced by Sen. Josh Harkins (R). The bill would create the Orphaned Well Partnership Program and provided related provisions and requirements under the program. [Read more.](#)

Pooling Notification Requirements – Montana. On January 19, LC1372 was introduced by Rep. Greg Oblander (R). Regarding pooling of interests, the bill would revise the existing notification section of the statute. [Read more.](#)

State Oil and Gas Conservation Commission – Nebraska. On January 12, LB 395 was introduced by Sen. Steve Erdman. The bill would change the compensation of members of the Nebraska Oil and Gas Conservation Commission. [Read more.](#)

Taxpayer Dividend Income Tax Rebate Fund; Federal Mineral Leasing Act – New Mexico. On January 13, HB 89 was introduced by Rep. James Townsend (R). The bill establishes the Taxpayer Dividend Income Tax Rebate Fund and provides that when the net receipts for that fiscal year of the money received by the state pursuant to the federal Mineral Leasing Act exceed the annual average amount, the excess shall be distributed to the Taxpayer Dividend Income Tax Rebate Fund. [Read more.](#)

State Renewable Energy Office – New Mexico. On January 13, HB 95 was introduced by Rep. Tara

Lujan (D). The bill provides that the state commissioner of public lands establish a renewable energy office. [Read more.](#)

Excess Oil & Gas Funds to Severance Tax Fund – New Mexico. On January 17, SB 26 was introduced by Sen. Roberto "Bobby" J. Gonzales (D). The bill would provide for the distribution of certain excess oil and gas tax revenues and federal mineral leasing act payments to the severance tax permanent fund. [Read more.](#)

Oil and Gas Regulation – North Dakota. On January 13, HB 1062 was introduced by the House Energy and Natural Resources Committee (R). The bill amends existing law "relating to regulation of oil and gas wells, service requirements, modernization of the notice requirement, updating position titles, clarification for mortgage insurance requirements, an exemption for specialized mill equipment, and flare mitigation." [Read more.](#)

Water Permit Hearings – North Dakota. On January 3, HB 1074 was introduced by the House Energy and Natural Resources Committee (R) and unanimously passed the House on January 17. The bill provides for public hearings related to water permits. [Read more.](#)

Oil Extraction Tax Exemption on Production from a Restimulation Well – North Dakota. On January 17, HB 1427 was introduced by Rep. Jason Dockter (R). The bill would create an oil extraction tax exemption on production from a restimulation well as provided. [Read more.](#)

Royalty Payment Information; Statements; Notifications; Payment Obligations; Inspection of Records – North Dakota. On January 18, HB 1520 was introduced by Rep. Bert Anderson (R). The bill updates existing law by providing requirements for royalty payment information and statements, ownership interest information statements, updated provisions related to the obligation to pay royalties, inspection of production and royalty payment records, and the resolution of spacing unit ownership interest disputes. [Read more.](#)

Permit Hearing Notices – North Dakota. On January 3, SB 2057 was introduced by the Senate Energy and Natural Resources Committee (R) and passed the Senate unanimously on January 13. The bill relates to changes made to the delivery of permit hearing notices. [Read more.](#)

Oil or Gas Well Sites – North Dakota. On January 3, SB 2058 was introduced by the Senate Energy and Natural Resources Committee (R) and unanimously passed the Senate on January 16. The bill relates to the jurisdiction of the regulatory authority and adding wellhead and equipment located at or on oil or gas well sites. [Read more.](#)

Well Plugging – North Dakota. On January 3, SB 2059 was introduced by the Senate Energy and Natural Resources Committee (R) and unanimously passed the Senate on January 17. The bill relates to the balance in the abandoned oil and gas well plugging and site reclamation fund. [Read more.](#)

Clean Natural Gas Capture and Emissions Reduction Program – North Dakota. On January 18, SB 2089, sponsored by the Senate Committee on Finance and Taxation (R), passed the Senate. The bill would create the Clean Natural Gas Capture and Emissions Reduction Program and provides governing provisions and appropriations. [Read more.](#)

Oil and Gas Production Tax County Allocations – North Dakota. On January 17, SB 2162, sponsored by Sen. Dale Patten (R), passed the Senate. The bill provides for oil and gas gross production tax allocations to counties. [Read more.](#)

Post-Production Royalty Oversight Program – North Dakota. On January 10, SB 2194 was introduced by Sen. Brad Bekkedahl (R). The bill would create a post-production royalty oversight program, and specifically that the program provides "technical assistance and support to landowners and mineral companies relating to royalty payment issues," among other related provisions. [Read more.](#)

Liens – North Dakota. On January 16, SB 2311 was introduced by Sen. Brad Bekkedahl (R). The bill amends existing law regarding well or pipeline construction liens and construction liens. [Read more.](#)

Oil and Gas Underground Storage – North Dakota. On January 16, SB 2317 was introduced by Sen. Jeffery Magrum (R). The bill amends existing law regarding provisions related to storage in an oil and gas reservoir, saline reservoir or aquifer, and storage in a salt cavern. [Read more.](#)

Enhanced Oil Recovery; Surface Owners – North Dakota. On January 11, HB 1272 was introduced by Rep. Mike Lefor (R). The bill amends existing law relating to the jurisdiction of the industrial commission and reviewing the enhanced oil recovery potential status of a well and rights of surface owners. [Read more.](#)

Oil Extraction Tax Rate Change – North Dakota. On January 11, HB 1286 was introduced by Rep. Craig Headland (R). The bill amends existing law to retain the oil extraction tax rate at 5 percent. [Read more.](#)

Oil Refining Capacity – North Dakota. On January 11, HCR 3006 was introduced by Rep. Vicky Steiner (R). The concurrent resolution urges “Congress to support policies to increase oil refining capacity in the United States.” [Read more.](#)

State Oil and Gas Leasing – Ohio. *(Update to 1/9/23 Report)* On January 6, Gov. Mike DeWine signed [HB 507](#) into law. “The bill requires, rather than authorizes, every state agency to lease agency-owned or controlled resources for development until the date on which the nomination procedure rules are adopted by the Commission. The state agency must enter the lease in good faith. The bill specifies the person seeking to lease the resources must submit proof of both of the following to the state agency: 1. Insurance and financial assurance; and 2. Registration with the Division of Oil and Gas Resources.” The bill “also includes, as ‘green energy,’ energy generated by using natural gas as a resource.” [Read the complete bill summary here.](#) As reported by state news outlets,

“The legislation, brought by the Ohio Oil and Gas Association, seeks to push the Ohio Oil and Gas Land Management Commission to stop dragging its feet on approving rules for oil and gas drilling on state lands by requiring all state agencies to open up land they control to drilling until the commission puts such rules in place. In 2011, state lawmakers opened state parks to oil and natural gas drilling and set up the commission to handle drilling applications. However, the commission has been slow to approve projects and missed a deadline last January to put leasing rules in place.” [Read more.](#) As reported by Ohio’s WOUB station, the bill “could speed up the process of permitting oil and gas drilling on state lands.” [Read more.](#) According to the Independent Petroleum Association of America, “landowners are poised for a long-fought property rights win allowing for the safe development of oil and natural gas under the surface of state-owned lands through House Bill 507 [...] until the passing of this amendment, private landowners close to and adjacent to Ohio state lands and parks were unable to develop their adjacent private minerals. Once this legislation goes into effect, landowners will be able to safely lease and develop Ohio’s energy-rich natural resources – over ten years after fracking was enshrined in state law.” [Read more.](#)

Keystone XL Pipeline – Pennsylvania. On January 9, Senate Resolution (SR) 9 was introduced by Sen. Wayne Langerholc (R). The resolution urges “the President of the United States to restart and expedite the completion of the Keystone XL pipeline.” [Read more.](#)

Railroad Commission – Texas. On January 12, HB 1296 was introduced by Rep. Vikki Goodwin (D). The bill relates to the recusal of a member of the Railroad Commission of Texas in certain matters. [Read more.](#)

Railroad Commission – Texas. On January 12, HB 1302 was introduced by Rep. Charlie Geren (R). The bill relates to inspections and examinations by the Railroad Commission of Texas of certain sites and facilities conducted using unmanned aircraft. [Read more.](#)

Federal Regulation of State Oil and Gas

Operations – Texas. On January 13, SB 470 was introduced by Sen. Drew Springer (R). The bill would limit federal regulation of oil and gas operations within the state. [Read more.](#)

Modifies Oil and Gas Severance Tax Provisions –

Utah. On January 18, SB 107 was introduced by Sen. Ronald Winterton (R). The bill modifies provisions related to oil and gas severance tax, specifically, the bill creates the Impact Projects Restricted Account (restricted account) to fund loans and grants to local governments impacted by mineral resource development; funds the restricted account with above-trend revenue from the oil and gas severance tax; directs the Permanent Community Impact Fund Board to award loans and grants from the restricted account for infrastructure projects intended to address the impacts of mineral resource development; and provides appropriations. [Read more.](#)

Office of Oil and Gas of the Department of Environmental Protection Funding – West Virginia.

On January 11, HB 2021 was introduced by Del. Evan Hansen (D). “The purpose of this bill is to provide stable and adequate funding to the Office of Oil and Gas of the Department of Environmental Protection in order to oversee oil and gas wells’ compliance with the law for the life of the wells. The bill provides the funding by requiring an annual oversight fee of \$100 for each well that is to be used for the functions of the Office of Oil and Gas with any excess to be used to plug orphaned wells.” [Read more.](#)

Well Locations – West Virginia. On January 11, HB 2022 was introduced by Del. Evan Hansen (D). “The purpose of this bill is to provide that the limit of disturbance of a well site may not be closer to an occupied building than 2,500 feet.” [Read more.](#)

Standardized Oil and Gas Contracts – West Virginia. On January 11, HB 2174 was introduced by Del. Phil Mallow (R). “The purpose of this bill is to require the secretary of the Department of Environmental Protection to adopt rules relating to the

standardization of leases, deeds, or contracts relating to oil and gas, consistent in format with the purpose of making the terms of these documents less confusing to the landowners.” [Read more.](#)

Entry On Private Lands – West Virginia. On January 16, HB 2574 was introduced by Del. Chuck Horst (R). As to the authority of the Director of the Division of Natural Resources, “The purpose of this bill is to set forth limitations of entry onto private lands; clarify the process for law enforcement entry onto posted private lands; and clarify the use of surveillance cameras on or near posted private lands.” [Read more.](#)

Royalty Payment Tax Withholding – West Virginia.

On January 16, HB 2623 was introduced by Del. Kayla Young (D). “The purpose of this bill is to require lessees of West Virginia real estate who make natural resources royalty payments for in-state property to any nonresident lessor, to withhold West Virginia personal income tax on natural resources royalty payments.” The bill also “provides exceptions, penalties, defines terms and grants rule-making authority.” [Read more.](#)

Orphan Oil and Gas Well Prevention Act – West

Virginia. On January 11, SB 109 was introduced by Sen. Randy Smith (R). “The purpose of this bill is to create the Orphan Oil and Gas Well Prevention Act” including “providing for restrictions to permit oil and natural gas wells, certain prohibitions, and requiring plugging assurance requirements; providing for limitations on the transfer of wells; providing for responsibility of previous operators to plug transferred wells; providing for different methods for operators to provide plugging assurance of wells including for wells not producing in paying quantities; providing administrative and management responsibilities for the chief of the Office of Oil and Gas and the State Treasurer regarding plugging assurance funds; providing clarifications regarding the duties of mineral and surface owners; and providing for rule-making authority.” [Read more.](#)

Well Oversight Fee – West Virginia. On January 11, SB 13 was introduced by Sen. Randy Smith (R). Regarding well plugging, the bill establishes an annual

oversight fee for wells producing more than 10,000 cubic feet of gas per day. [Read more.](#)

Royalty Payment Tax Withholding – West Virginia.

On January 11, SB 60 was introduced by Sen. Charles Trump (R). The bill provides for the withholding of personal income tax on income from natural resources royalty payments for nonresidents. [Read more.](#)

Division of Natural Resources Management and Disposal of Property – West Virginia. On January 12, SB 161 was introduced by Sen. Craig Blair (R) and has passed both chambers as of January 20. The bill would amend the existing natural resources code property management section to provide that “The division shall have the authority, with the approval in writing of the Secretary of the Department of Commerce, to sell, lease, or otherwise dispose of property that is under the jurisdiction and control of the director. The director may convey property in exchange for money, security or property, both real and personal, and any interest in such property, including lands and waters, which he or she deems suitable for the purposes of the division.” [Read more.](#)

Carbon Sequestration – West Virginia. On January 12, SB 162 was introduced by Sen. Craig Blair (R) and has passed both chambers as of January 20. The bill would authorize “the director of the Division of Natural Resources to lease state-owned pore spaces underlying state forests, natural and scenic areas, and management areas, and other lands under the jurisdiction and control of the director for carbon sequestration; prohibiting the leasing of pore spaces underlying state parks; establishing competitive bidding process; providing for procedures and requirements; and authorizing the director to directly award a pore space under certain circumstances when necessary for an economic development project.” [Read more.](#)

Natural Resources Anti-Commandeering Act – West Virginia. On January 13, SB 183 was introduced by Sen. Patrick Martin (R). The bill would create the Natural Resources Anti-Commandeering Act with the purpose to protect employees of the State of West

Virginia and its political subdivisions from being commandeered by a federal agency or other agent to enforce federal regulations and other actions related to extractive resources or related downstream industries, which do not exist in state law. [Read more.](#)

Foreign Ownership of Property – Wyoming.

On January 17, HB 116 was introduced by Rep. Bill Allemand (R). The bill amends existing law to provide for provisions prohibiting foreign property ownership in Wyoming. [Read more.](#)

Severance Tax Refunds – Wyoming. On January 18, HB 163 was introduced by the Select Federal Natural Resource Management Committee (R). This bill establishes severance tax refunds for specified oil, natural gas and coal severance taxes based on increased federal mineral royalty (FMR) rates. [Read more.](#)

State Land Leases – Wyoming. On January 18, HB 171 was introduced by Rep. Andrew Byron (R). Relating to state lands, the bill provides for 30-day notice to be given before the lease of school lands; allowing county residents to match the highest bid for leases of school lands as specified; allowing the board of land commissioners to lease the school land to the highest bidder as specified; and providing for related provisions. [Read more.](#)

Ad Valorem Tax on Gross Product of Mineral Production – Wyoming. On January 10, SF 81 was introduced by Sen. Ogden Driskill (R). The bill updates existing law regarding ad valorem taxation on gross product of mineral production, and regarding the monthly payment of ad valorem tax on gross product of mineral production, provides that the tax year shall be the calendar year when mineral production occurs. The bill also updates the applicable calculation of the mill levy rate. [Read more.](#)

State Lands Exchange – Wyoming. On January 18, SF 128 was introduced by Sen. Larry Hicks (R). Relating to state lands, the bill would remove the requirement that state and federal lands be equal in size when exchanged by the state and the federal

government; and requires that federal and state land exchanges be subject to the orders, rules and regulations related to the exchange of lands.

[Read more.](#)

Phasing out Electric Vehicle Sales – Wyoming.

On January 10, [Senate Joint Resolution \(SJR\) 4](#) was introduced by Sen. Jim Anderson (R). The measure details the state's ongoing support of the Wyoming oil and gas industry and "encourages and expresses as a goal that the sale of new electric vehicles in the state of Wyoming be phased out by 2035." While some commentators have called the resolution a stunt, it serves the purpose of drawing attention to other states' misguided policies that seek to shut down domestic oil and gas production and harm the American people and our energy independence. As Sen. Anderson noted, "We just wanted to make a statement that there is a counter to stopping selling gas vehicles in other states." [Read more.](#)

STATE – Regulatory

CalGEM Supervisor Resigns – California.

On January 18, it was reported that the California Geologic Energy Management Division (CalGEM) supervisor, Uduak-Joe Ntuk, has resigned. A former Chevron engineer and first African-American to serve as state oil and gas supervisor, Ntuk "said by email he was not asked to resign and did so only to focus on his family while moving forward to the next phase of his career." He has been succeeded on an interim basis by Gabe Tiffany, chief deputy director of the state Department of Conservation. As reported, Ntuk had a "controversial tenure reflective of the high-stakes war playing out between the industry and environmental activists pushing the Newsom administration to do more to rein in petroleum production." [Read more.](#)

COGCC Stakeholder Meetings for Cumulative Impacts Permitting Process – Colorado.

On January 20, the Colorado Oil & Gas Conservation Commission (COGCC) "announced a series of stakeholder meetings to solicit initial input on the COGCC's approach to further address Cumulative Impacts in the permitting process. COGCC will use

this input to formulate next steps in the stakeholder process to help develop recommendations for the Commission." COGCC Commissioner Brett Ackerman said, "We want to encourage anyone who would like a voice on this issue to provide input on how the COGCC should continue to evaluate and address Cumulative Impacts. We view these first four meetings as a scoping process during which stakeholders can identify any relevant issues that are within COGCC's purview and mission, consistent with [SB 19-181](#)." All meetings will be virtual and the first will be held on January 27, 2023. The COGCC has also provided a comment form for public input. To access the announcement, meeting dates, and public comment information, [visit the COGCC website here](#). The COGCC has also provided a separate document with meeting dates and access information, [available here](#).

Oil and Gas Association Appointment – Ohio.

On January 16, it was announced that "Amanda Finn, director of external affairs at Ascent Resources in Cambridge, was elected the 38th chairman of the Ohio Oil and Gas Association. She is the youngest individual to serve in this role, as well as the first female and first shale operator." As reported by *USA Today*, "Finn previously served as vice chairman and treasurer of OOGA and chaired of the association's government affairs committee. In 2019, she earned OOGA's Oilfield Patriot Award, which recognizes an individual who has made significant contributions to protect, promote and advance the common interests of Ohio's crude oil and natural gas industry."

[Read more.](#)

State Regulatory Agenda – Pennsylvania.

Throughout last year, AAPL Governmental Affairs has provided members with regulatory tracking and analysis for multiple measures in Pennsylvania, including the Regional Greenhouse Gas Initiative and methane emissions reduction policies. On January 18, the environmental and energy practice at law firm Manko, Gold, Katcher & Fox LLP provided a comprehensive recap of the Pennsylvania regulatory agenda and what can be expected in 2023. To access this detailed resource, [Read more.](#)

STATE – Judicial

Los Angeles Oil and Gas Drilling Ban – California.

On January 10, Warren Resources, which operates an oil-extraction site in the city of Los Angeles, filed a complaint against the city challenging the recently adopted ordinance that bans new wells and phases out existing wells over the next 20 years, a measure that AAPL has been reporting on for members throughout last year. According to the complaint in *Warren E&P Inc. v. City of Los Angeles* (Case No. 23STCP0060A), “the new ordinance violates due process and amounts to a seizure of its property without just compensation.” The lawsuit also “contends the city’s actions are a violation of the California Environmental Quality Act, the city’s General Plan and the state and federal constitutions.” [Read more.](#) The company seeks a court order “directing the city to vacate the ordinance, as well as a preliminary injunction blocking any implementation or enforcement of the law while the suit proceeds.” According to the complaint, not only does the ban “effect a taking for which no just compensation has been paid, but a shutdown of the industry will eliminate good-paying jobs, leaving many jobless with no plausible equivalent replacement.” No publicly available copy of the complaint is yet available, but we will continue to track and report on the case as it proceeds. [Read more.](#)

INDUSTRY NEWS FLASH

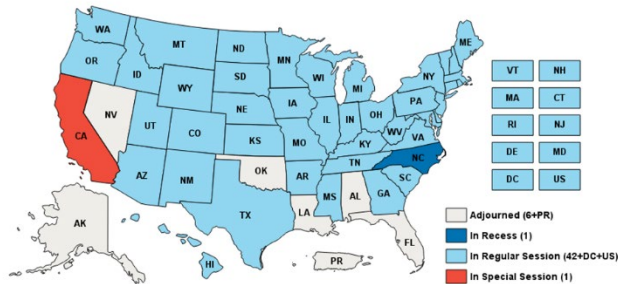
► **Appalachian Basin’s operators launch new coalition to monitor and reduce methane emissions.** On January 11, as reported by *Natural Gas Intelligence*, “Three of the Appalachian Basin’s leading upstream and midstream operators on Wednesday announced a new coalition aimed at better monitoring and reducing methane emissions throughout the Marcellus and Utica shales.” The new group, the Appalachian Methane Initiative, “said it would work to identify and fix fugitive methane emissions in the basin through coordinated satellite and aerial surveys that take into account advanced methane monitoring and reporting frameworks.” [Read more.](#)

► **Federal Reserve will stay out of climate change policymaking, says Chairman Powell.** On January 10, Federal Reserve Chairman Jerome Powell said it would be “inappropriate” for “the central bank to plunge itself into the fight against climate change.” Speaking to an audience at a central banking symposium in Stockholm, Sweden, “Powell said while the Fed must make sure banks are prepared for climate-related financial risks, it must not take measures to steer money toward green energy or away from the fossil fuel sector.” Further, Powell said, “Without explicit congressional legislation, it would be inappropriate for us to use our monetary policy or supervisory tools to promote a greener economy or to achieve other climate-based goals. We are not, and will not be, a ‘climate policymaker.’” [Read more.](#)

► **API releases 2023 State of American Energy Report.** On January 11, the American Petroleum Institute (API) released its 2023 State of American Energy report, which according to API, outlines “the policies needed to make, move and improve American energy and prioritize U.S. natural gas and oil as a long-term strategic asset.” API CEO Mike Sommers said, that while the “state of American energy is strong and resilient” [...] “we need policies to enhance the American energy supply chain and not hinder it. The State of American Energy could be much stronger through bipartisan cooperation, a reversal of rhetoric from the Administration, and serious policies that encourage investment and enable development.” [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



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

North Carolina adopted a [joint resolution](#) on January 11 to recess until January 25.

Tennessee adopted a [joint resolution](#) on January 12 that schedules both chambers for recess on January 21. The Senate is scheduled to reconvene on January 24 and the House on January 30.

The following states are scheduled to convene their 2023 legislative sessions on the dates provided: **Alaska** (January 23) and **Nevada** and **Oklahoma** (February 6).

Signing Deadlines (by date): **Michigan** Democratic Gov. Gretchen Whitmer has 14 days from presentment to sign or veto legislation or it is pocket vetoed. **North Carolina** Democratic Gov. Roy Cooper has 10 days from presentment to act on legislation or it becomes law without signature.

The following states are currently holding interim committee hearings: [Alabama](#), [Alaska](#), [Florida House](#) and [Senate](#), [Louisiana](#), [Nevada](#), and [Oklahoma House](#) and [Senate](#).

The following states are currently posting 2023 bill drafts, pre-files and interim studies: [Alaska](#), [Florida](#), [Nevada](#) and [Oklahoma](#). ■

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