

GOVERNMENTAL AFFAIRS REPORT

FEDERAL – Legislative

S.J. Res. 78 – Resolution Disapproving of the BLM’s Fluid Mineral Leases and Leasing Process Rule.

On May 14, Sen. Steve Daines (R-MT) was joined by 12 Republican cosponsors in introducing [S.J. Res. 78](#), a Senate joint resolution disapproving of the recent Bureau of Land Management (BLM) Fluid Mineral Leases and Leasing Process rule that we covered for members in the April 29, 2024, Governmental Affairs Report (See [Fluid Mineral Leases and Leasing Process](#); 89 Fed. Reg. 30916) That BLM rule, which takes effect on June 22, 2024, implements required provisions of the Inflation Reduction Act “pertaining to royalty rates, rentals, and minimum bids; updates the bonding requirements for leasing, development, and production; and revises some operating requirements.” According to Sen. Daines, the “new rule would significantly raise royalties, rates, minimum bids, costs and bonding requirements for oil and gas producers on federal lands making it virtually impossible for small energy producers to continue to operate.” The resolution, which would nullify the rule under the Congressional Review Act, was lauded by industry leaders. “Energy development on federal lands is critical to strengthening America’s energy security, powering our economy, and supporting state and local conservation efforts,” said Holly Hopkins, VP of Upstream Policy at the American Petroleum Institute. “We welcome Sen. Daines’ efforts to overturn this overly burdensome land management regulation and ensure the Biden administration is promoting fair and consistent access to federal resources.” [Read more.](#)

Senate Committee on Energy & Natural Resources Hearing on Electric Demand Growth. On May 21, the Senate Committee on Energy & Natural Resources held a hearing, Full Committee Hearing to Examine the Opportunities, Risks, and Challenges Associated

with Growth in Demand for Electric Power in the United States, the purpose of which was “to examine the opportunities, risks, and challenges associated with growth in demand for electric power in the United States.” Committee Chairman Joe Manchin (D-WV) stressed the importance of traditional energy sources, such as natural gas, in securing an abundant and reliable electrical grid. “EPA recently finalized four new power plant rules that, as far as I can tell, aim to kill coal completely and stop natural gas from replacing it, even though these dispatchable resources are essential for reliability,” said Sen. Manchin. “If this Administration were serious about onshoring critical industries—the ones driving the load growth—they wouldn’t be in a race to take power offline, they’d be racing to bring new generation online. But instead, it’s getting harder and harder to permit and build new energy infrastructure and connect new generation to the grid.” Hearing witnesses included industry leaders and other experts. To access a full video recording of the hearing and witness testimony, [Read more.](#)

FEDERAL – Regulatory

BLM Rights-of-Way, Leasing, and Operations for Renewable Energy. On May 14, 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 and Gas, or Geothermal Resources: Transfers and Assignments* (89 Fed. Reg. 41990), that “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 June 13, 2024. [Read more.](#)

BLM Western Montana Resource Advisory Council. On May 17, the BLM published a notice of a public

meeting of the Western Montana Resource Advisory Council. The Council will hold a field tour and meeting on June 26 and June 27, 2024, both of which are open to the public. The Council “provides recommendations to the Secretary of the Interior concerning the planning and management of the public land resources located within the BLM's Western Montana District.” [Read more.](#)

Dune Sagebrush Lizard Listed as Endangered Species by U.S. Fish and Wildlife Service. On May 17, the Interior Department's U.S. Fish and Wildlife Service announced it is “listing the dunes sagebrush lizard as an endangered species under the Endangered Species Act. The decision comes after a rigorous review of the best available scientific and commercial information, a 90-day public comment period, and a public hearing and information session. The designation of critical habitat was found to be prudent but not determinable at this time. The Service has up to one year from the time of listing to propose critical habitat.” [Read the announcement here.](#) The final rule will be effective June 20, 2024. (See also, *Endangered and Threatened Wildlife and Plants; Endangered Species Status for the Dunes Sagebrush Lizard*; [89 Fed. Reg. 43748](#)) However, Texas Railroad Commissioner Wayne Christian criticized the announcement, saying, “This doesn't have a thing to do with ‘saving lizards’; it's about shutting down U.S. oil and gas production to win political brownie points, which will only increase inflation and jeopardize billions of lives globally. It doesn't matter if it's a lizard, a chicken, a whale, or a unicorn, radical environmentalists won't be satisfied until we all get our energy from firewood and are living in a cave again. To them, this is about ending fossil fuels to ‘better humanity’, which is ironic given they allow mankind to flourish by powering 80% of the globe's energy, manufacturing 96% of consumer products, and helping to feed more than half the planet. Right now, the world needs more energy and more Texas oil and gas, and all this does is drive up prices and make it harder on consumers.” [Read more.](#)

STATE – Legislative

Emissions from Oil and Gas Operations – Colorado. On May 17, Gov. Jared Polis (D) signed

[SB24-229](#) into law. The bill “limits pollutant emissions from oil and gas operations, modifies how the Department of Public Health and Environment (CDPHE) and the Energy and Carbon Management Commission (ECMC) in the Department of Natural Resources (DNR) enforce air quality requirements, requires CDPHE to publish additional enforcement reports, establishes community liaisons in the ECMC, and allows for the plugging of marginal oil and gas wells.” [Read a complete bill summary here.](#) Specifically, the bill “requires the Department of Public Health and Environment to adopt rules by Aug. 31, 2026, to reduce nitrogen oxide emissions from upstream oil and gas operations. Between May 1 and September 30 in the ozone non-attainment area, emissions must be reduced by 50% from a 2017 baseline.” [Read more.](#)

Oil and Gas Production Fees – Colorado. On May 17, Gov. Jared Polis (D) signed [SB24-230](#) into law. The bill requires the imposition of an oil and gas production fee for clean transit. The production fee “applies to all oil and gas produced by the producer in the state on and after July 1, 2025.” As reported by *Colorado Newswire*, “Colorado's largest oil and gas companies agreed to the fees, which will fund state efforts to boost public transit and protect wildlife habitats, in exchange for a commitment from Democrats not to pursue major new regulations on the industry for the next several years. The deal also extended a truce between industry groups and environmentalists on ballot measures relating to oil and gas extraction.” [Read more.](#) And as reported by *Colorado Public Radio*, “The political truce is engineered to prevent any additional laws or ballot measures targeting drilling or hydraulic fracturing until 2028 — well into the term of the state's next governor” and freezing “Colorado's approach to fossil fuels for almost four years to allow for the full roll-out of its policies and regulations.” [Read more.](#)

Regulatory Reduction Task Force Meeting – Wyoming. The Wyoming Legislature will hold a Regulatory Reduction Task Force meeting on May 29-30, 2024. According to the Task Force, “The purpose of this meeting is to begin the Task Force's

interim work. The Task Force will receive input from Executive branch agencies, local governments, members of industry groups, and the public on energy and housing. Finally, the Task Force will discuss next steps and future meeting dates.” The meeting, which is open to the public, will be held in person in Jackson and remotely with a live video stream available.

[Read more.](#)

For all 550+ bills AAPL is currently monitoring and tracking for members, please see the continuously updated member-exclusive AAPL Governmental Affairs Bill Tracking Summary spreadsheet, available through the AAPLConnect LANDNEWS and Governmental Affairs Network member forums [here](#) or on the AAPL website [here](#).

STATE – Regulatory

Energy & Carbon Management Commission Deep Geothermal Rulemaking – Colorado. On May 17, the Colorado Energy and Carbon Management Commission announced it will be considering additions and amendments to Commission rules as part of its “Deep Geothermal” rulemaking. As provided, “The proposed Deep Geothermal rules establish a permitting structure for the review and authorization of deep geothermal wells and surface locations.” [Read a detailed summary of the proposed rulemaking here.](#) The Commission also provided that “Persons or organizations wanting to participate in this rulemaking as a party are required to file a written request for party status with the Commission on or before Thursday, May 30, 2024, 5:00 p.m. The Commission will compile a list of all parties with contact information and make it available on the Commission’s website. Late requests for party status will not be accepted absent good cause for the delay.” The Commission will also notify parties of a prehearing conference once available. [Read more.](#)

Railroad Commission Challenges EPA Greenhouse Gas Emissions Rule – Texas. On May 14, the Texas Railroad Commission (RRC) announced that RRC commissioners voted “to refer a new Environmental Protection Agency (EPA) greenhouse gas emissions rule to the Office of the Attorney General to file a lawsuit

to challenge the rule in federal court.” As reported, “The EPA rule adds regulations to existing and future electricity power plants fueled by coal and natural gas to decrease carbon dioxide emissions. However, the rule imposes strict but untested standards in what will likely result in unreasonable infrastructure costs, which could force coal plants to shut down and reduce the ability of natural gas-fired power plant to operate at full capacity.” We will continue to keep AAPL members informed once the Texas Attorney General files a lawsuit. [Read more.](#)

STATE – Judicial

Lease Interpretation; Mineral Rights; Trespass – Ohio. On May 23, the Ohio Supreme Court reversed lower court rulings to find in favor of lessee companies in a lease dispute over certain formations and mineral rights. Specifically, in *Tera, L.L.C. v. Rice Drilling D, L.L.C.* (Case No. 2024-OHIO-1945), the court addressed whether the “Utica Shale” beneath Tera’s land “included the right for appellants to drill wells into a geological area known as the ‘Point Pleasant.’” The court was “also asked to determine whether there was sufficient evidence to sustain the trial court’s award of summary judgment to Tera on its bad-faith-trespass claim against appellants.” The court held, “that there is a genuine issue of material fact regarding the meaning of certain terms in the lease” thus reversing the judgment of the Seventh District appellate court and remanding the case back to the trial court for further proceedings. The court wrote, “We are not persuaded that the lease language clearly established that the Point Pleasant was or was not to be considered part of the Utica Shale” and it was up to a fact-finder to resolve the ambiguity in the contract. [Read more.](#)

Leases; Royalties; Post-Production Costs – Texas. On May 17, the Texas Supreme Court resolved a dispute involving the way a producer accounted for post-production costs in *Carl v. Hilcorp Energy Co.* (Case No. 24-0036). “The producer used some of the gas produced from the well to power post-production activities conducted off the lease on other gas produced from the well. The value of the gas used for post-production activities was a post-production cost of the kind normally chargeable to the royalty holder.

The producer accounted for this value by subtracting the volume of gas it used in post-production from the total volume of gas on which it calculated the royalty. The royalty holder sued, arguing that the producer could not subtract the volume of gas used in post-production because the lease required payment of a royalty on all gas produced from the well.” Specifically, the “lease provided for a market-value-at-the-well royalty on gas ‘sold or used off the [leased] premises’ and limited free-use to gas used on the leased premises. Texas’s high court agreed with the other Texas courts to consider the issue and concluded that the value of the gas used in off-lease post-production activities was a post-production cost that could be shared with the royalty owner.” As reported by law firm Haynes and Boone LLP, the takeaway is that the Texas Supreme Court “confirmed that a royalty owner with a market-value-at-the-well lease must bear its share of all postproduction costs, including the value of gas used for off-lease postproduction activities. The Court expressed no preference as to the accounting method used to calculate royalty in this context.” [Read more.](#)

INDUSTRY NEWS FLASH

► **U.S. oil output in top shale regions to hit six-month high in June.** The U.S. Energy Information Administration (EIA) said in its monthly Drilling Productivity Report that “U.S. oil output from top shale-producing regions will rise in June to its highest in six months.” The EIA reports, “Production in the top basins will reach 9.85 million barrels per day (bpd), its highest since December.” [Read more.](#)

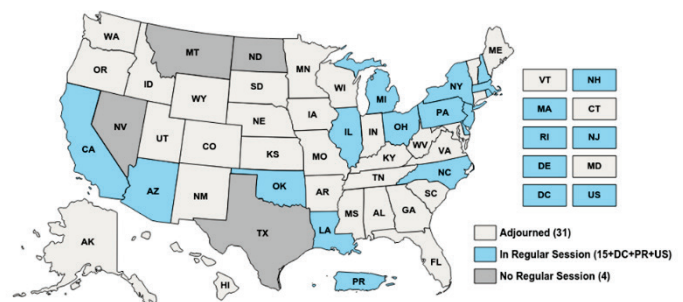
► **Alaska governor elected chairman of the Interstate Oil and Gas Compact Commission.** Alaska Gov. Mike Dunleavy (R) has been elected as the incoming chairman of the Interstate Oil and Gas Compact Commission, succeeding Wyoming Gov. Mark Gordon (R). “The IOGCC is a multi-state government group promoting best practices for regulating and conserving the ‘recovery of domestic oil and natural gas resources while protecting health, safety and the environment.’ Membership is comprised

of the governors of oil and gas producing states, as well as appointed representatives, affiliated provinces in Canada, and some federal agencies. [Read more.](#)

► **West Virginia receives millions from the federal government to plug orphaned wells.** The U.S. Department of the Interior (DOI) has awarded West Virginia nearly \$29.2 million to “plug roughly 200 orphaned oil and gas wells” in the state. As reported, “the DOI granted the state an initial \$25 million to get the plugging process started. DOI officials hope the new funds will advance that effort and reduce the state’s overall leakage of greenhouse gasses.” [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Arizona, California, Delaware, Illinois, Louisiana, Michigan, North Carolina, Ohio, Oklahoma, and Pennsylvania are in regular session. The U.S. Congress is also in session.

The following states adjourned their 2024 legislative sessions on the dates provided: **Wisconsin** (May 15), **Alaska** (May 16), **Missouri** (May 17), and **Illinois** (May 24).

The following states are expected to adjourn on the dates provided: **Oklahoma** (May 31) and **Louisiana** (June 3).

New Mexico Democratic Gov. Michelle Lujan Grisham has called for a special session starting July 18. According to her [press release](#), the special session

will take up additional public safety protections. Some issues that will likely be addressed include pedestrian safety on roads and in public spaces, laws allowing courts to intervene for those who need substance abuse or mental health help and enhanced penalties for felons in possession of guns, according to [KRQE](#). The session is expected to last several days.

West Virginia adjourned its special session on May 21 after passing all 15 bills that were outlined in Republican Gov. Jim Justice's [proclamation](#). According to [WBOY](#), most of the bills passed addressed budget corrections, including funds for the Departments of Health, Human Services and Transportation. The legislature also passed a bill that created funding for higher education institutions in the state to aid in handling delays with the Free Application for Federal Student Aid (FAFSA).

Signing Deadlines (by date): **Alabama** Republican Gov. Kay Ivey had until May 19 to act on legislation or it was pocket vetoed. **Iowa** Republican Gov. Kim Reynolds had until May 20 to act on legislation or it was pocket vetoed. **Maryland** Democratic Gov. Wes Moore has until May 28 to act on legislation or it becomes law without signature. **Colorado** Democratic Gov. Jared Polis has until June 8 to act on legislation or it becomes law without signature. **Missouri** Republican Gov. Mike Parson has until July 1 to act on legislation or it becomes law without signature. **Alaska** Republican Gov. Mike Dunleavy has 20 days from presentment, excluding Sundays, to act on legislation or it becomes law without signature. **Florida** Republican Gov. Ron DeSantis has 15 days from presentment to act on legislation or it becomes law without signature. **Mississippi** Republican Gov. Tate Reeves has 15 days from presentment, excluding Sundays, to act on legislation or it becomes law without signature. **Tennessee** Republican Gov. Bill Lee has 10 days from presentment, excluding Sundays, to act on legislation or it becomes law without signature.

The following states are currently holding interim committee hearings or studies: [Alabama](#), [Arkansas](#), [Colorado](#), [Connecticut](#), [Indiana](#), [Kentucky](#), [Maine](#), [Maryland](#), [Montana](#), [Nevada](#), [New Mexico](#), [North](#)

[Dakota](#), [Oregon](#), [South Carolina](#), [South Dakota](#), the **Texas House**, [Utah](#), [Virginia](#), [Washington](#), [West Virginia](#) and [Wyoming](#).

The following states are currently posting 2024 bill drafts, pre-files and interim studies: [Nebraska](#), [North Dakota](#) and [Utah](#). ■

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