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GOVERNMENTAL AFFAIRS
REPORT

FEDERAL – Legislative

S.J. Res. 31 – EPA Major Source Emissions Rule Rescission. On May 22, the House passed S.J. Res. 31, that will rescind a Biden-era U.S. Environmental Protection Agency rule, "Review of Final Rule Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act" (89 Fed. Reg. 73293), requiring "sources of persistent and bio-accumulative hazardous air pollutants to continue to comply with certain major source emission standards under the Clean Air Act even if the sources reclassify as area sources." The Biden rule imposed strict restrictions on emissions for industrial sources, including certain oil and gas facilities, as well as ordering new notification requirements. The Senate passed the measure on May 1, and it now heads to President Trump for signature. Congress used the Congressional Review Act to nullify the rule, which "allows Congress to repeal most federal agency rules with a simple majority vote. Thereafter, agencies are generally prohibited from adopting new rules that are substantially similar to an invalidated regulation." Read more.

FEDERAL – Regulatory

Interior Department Seeks Public Input to Reduce Regulatory Burdens. On May 16, the U.S. Department of the Interior announced "the launch of a public comment period to support the Administration's efforts to streamline federal regulations and reduce unnecessary red tape." The announcement provides, "As part of President Donald J. Trump's government-wide deregulatory agenda, Interior is inviting the public to identify outdated, overly complex or burdensome regulations. The effort aims to lower costs, boost economic growth and support energy independence—while ensuring that Interior continues to meet its legal and environmental responsibilities." Further, "This initiative follows Executive Order 14154, issued on the President's first day in office, which directs agencies to develop and implement plans to suspend, revise or rescind regulations deemed unduly burdensome. In response, Interior Secretary Doug Burgum signed Secretary's Order No. 3418 on February 3, directing all Assistant Secretaries to begin immediate reviews and submit action plans for compliance." Read more.

Offshore Oil and Gas Operations National Marine Fisheries Service Opinion. On May 20, the U.S. Department of the Interior's National Marine Fisheries Service (NMFS) issued a new biological and conference opinion on the effects of oil and gas development regarding vessel strikes from oil and gas operations in the U.S. Gulf region that could cause Rice's whale extinction impacts. Read the NMFS opinion here. As reported by the *Oil & Gas Journal*, "NMFS was required to complete this new biological opinion after a federal court in Maryland found the 2000 biological opinion on Gulf oil and gas activities, effective May 21, 2025, was unlawful. The court found that NMFS did not adequately assess the effects of vessel strikes and oil spills on endangered species. It said it would vacate the opinion, potentially imperiling oil and gas operations." The opinion finds that a "reasonable and prudent alternative" that involves "the development of new technology to detect the whales, speed limits, and a requirement to keep a 500-m distance if a whale is spotted, would reduce the threat to acceptable levels because it would make lethal vessel strikes 'extremely unlikely to occur.'" The opinion was hailed by Holly Hopkins, American Petroleum Institute Vice President of Upstream Policy, who said, "The biological opinion provides a necessary foundation for oil and natural gas operations in the Gulf of America, and a gap between opinions would significantly slow down or halt all permits for routine,

daily operations." Read more. To learn more about the NMFS opinion and Bureau of Ocean Energy Management protocols covering oil and gas activities in the Gulf of America, Read more.

USGS Oil and Gas Assessment – Colorado; Utah; Wyoming. On May 21, the U.S. Department of the Interior "announced the release of a new U.S. Geological Survey assessment identifying significant undiscovered, technically recoverable oil and gas resources in the Mowry Composite Total Petroleum System. Spanning parts of Wyoming, Colorado and Utah, the assessment estimates the presence of 473 million barrels of oil and 27 trillion cubic feet of natural gas—resources that could help bolster domestic energy supply and fuel local economies." According to Interior Secretary Doug Burgum, "This new USGS assessment underscores the role of American energy resources in strengthening our energy independence and driving economic development across the West." Read more.

BLM Oil and Gas Lease Sale – Louisiana; Michigan. On May 22, the Bureau of Land Management Eastern States Office "opened a public comment period to receive public input on three oil and gas parcels totaling 2,065 acres that will be included in an upcoming lease sale in Louisiana and Michigan." The public comment period ends June 23, 2025. Read more.

BLM Oil and Gas Lease Sale – North Dakota. On May 20, the Bureau of Land Management Montana-Dakotas State Office "opened a 30-day public comment period to receive public input on plans to include seven oil and gas leases, totaling 3,001 acres in North Dakota in an October 2025 sale." The public comment period ends June 19, 2025. Read more.

FEDERAL – Judicial

National Environmental Policy Act Environmental Assessments – U.S. Supreme Court. On May 29, the U.S. Supreme Court issued an 8-0 decision in *Seven County Infrastructure Coalition v. Eagle County* (Case No. 23–975) addressing environmental reviews as required by the National Environmental Policy Act (NEPA). The case involved the Seven County Infrastructure Coalition application to the U.S. Surface Transportation Board "for approval of an 88-mile railroad line connecting Utah's oil-rich Uinta Basin to the national freight rail network, facilitating the transportation of crude oil to refineries along the Gulf Coast. As part of its project review, the Board prepared an environmental impact statement (EIS) that addressed significant environmental effects of the project and identified feasible alternatives that could mitigate those effects." Environmental groups subsequently filed suit in the D.C. Circuit which found "numerous NEPA violations arising from the EIS." Specifically, the lower court held that the Board impermissibly limited its analysis of the environmental effects from upstream oil drilling and downstream oil refining projects, concluding that those effects were reasonably foreseeable impacts that the EIS should have analyzed more extensively. Based on the deficiencies it found in the EIS, the D. C. Circuit vacated both the EIS and the Board's final approval order." As noted by the Supreme Court, "Relevant here, the EIS noted, but did not fully analyze, the potential environmental effects of increased upstream oil drilling in the Uinta Basin and increased downstream refining of crude oil. The Board subsequently approved the railroad line, concluding that the project's transportation and economic benefits outweighed its environmental impacts." Here, the Supreme Court held, "The D.C. Circuit failed to afford the Board the substantial judicial deference required in NEPA cases and incorrectly interpreted NEPA to require the Board to consider the environmental effects of upstream and downstream projects that are separate in time or place from the Uinta Basin Railway." Further, the Supreme Court provided, "Courts should defer to agencies' discretionary decisions about where to draw the line when considering indirect environmental effects and whether to analyze effects from other projects separate in time or place." As provided by law firm Holland & Hart, "Writing for the majority, Justice Brett Kavanaugh emphasized that NEPA is a procedural statute—designed to ensure informed decision-making, not to

serve as a regulatory tool to halt development. The Court held that federal agencies are only required to assess environmental effects that are directly caused by the project and within the agency's jurisdiction or control. The ruling overturned a lower court decision that had mandated a broader environmental review. The Supreme Court found that federal agencies are not obligated to analyze indirect, speculative, or tangential impacts—such as increased oil extraction or downstream refining activities—that stem from separate or future actions beyond the agency's direct oversight. However, indirect impacts closely tied to the project itself, such as emissions or water runoff, may still require review." As reported by *The Hill*, with this decision, the "Supreme Court has narrowed the scope of environmental review under one of the nation's bedrock environmental laws" as "the high court determined reviews conducted under the National Environmental Policy Act (NEPA) do not need to consider certain upstream or downstream impacts of an infrastructure project." Read more. In short, as noted by law firm Beatty & Wozniak, P.C., "the Court recognized that some courts have assumed an 'aggressive role in policing agency compliance with NEPA.' It noted that 'NEPA has transformed from a modest procedural requirement into a blunt and haphazard tool employed by project opponents.' Further, "the Court stated that agencies are not required to evaluate the environmental effects of projects over which they have no regulatory authority. Provided the agency drew a reasonable line between the effects of the project (which the agency analyzed) and the effects of other potentially interrelated projects, the reviewing court should not substitute its judgment as to where to draw that line." The significance of the case is that it will assuredly have implications for future energy-related NEPA challenges, some of which may prove beneficial to the oil and gas industry, such as pipeline projects, as the opinion "reins in the power of federal courts to block projects." The court wrote, "NEPA does not allow courts, 'under the guise of judicial review' of agency compliance with NEPA, to delay or block agency projects based on the environmental effects of other projects separate from the project at hand." Read more.

State Leasing; Royalties – North Dakota. On May 2, in *Continental Resources, Inc. v. United States of America* (Case No. 23-2249), the U.S. Court of Appeals, Eighth Circuit, "resolved a dispute between North Dakota and the United States over entitlement to royalties from minerals extracted from beneath Lake Sakakawea, and ruled in favor of the State of North Dakota." Here, "Continental Resources leased minerals from both the Land Board and United States, and brought an interpleader action in state court to resolve the United States' and Land Board's competing claims to over 3.5 million dollars in royalty proceeds. The United States removed the case to federal court, and moved to dismiss based on sovereign immunity. The Eighth Circuit was tasked with resolving whether the United States waived its claim to sovereign immunity, and a choice of law issue: does federal or state law apply to the question of land ownership?" Deciding the jurisdictional matter, "the court held that under the plain language of [the] North Dakota statute, the United States had a lien on the disputed minerals, which waived its sovereign immunity claim. Reading federal and North Dakota law together, the court agreed with the district court's reading of the statute: 'if the United States owns minerals in North Dakota, it has a continuing state-law lien on proceeds derived from those minerals until the lien is satisfied…. Because the United States claims an interest in the [d]isputed [m]inerals, it cannot argue it does not have or claim a lien on unpaid royalties produced from those minerals.'" Read more.

STATE – Legislative

For the more than 870 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

Los Angeles Oil and Gas Ordinance – California. On May 21, the Los Angeles City Planning announced it will be holding a virtual stakeholder meeting on June 3, 2025, for its Oil and Gas Drilling Ordinance. According to the announcement, "Following the recent court ruling and the City Council's action to rescind the citywide Oil and Gas Drilling Ordinance No. 187,709 (adopted in 2022, Council File No. 17-0447-S2), Los Angeles City Planning invites you to attend a stakeholder meeting to discuss the reinstatement of oil and gas drilling policies for the City of Los Angeles, informed by Assembly Bill (AB) 3233. Recognizing the authority granted by AB 3233, the City is moving forward to reinstate an ordinance that continues to prohibit new oil and gas extraction and phase out existing operations citywide. The work program that City Planning will present at this meeting will cover the reinstatement ordinance and key policy objectives that were established by Ordinance No. 187,709. This initial meeting is the first of two stakeholder meetings that will take place as an opportunity to understand the proposed work program, ask questions, and provide your valuable feedback as we progress through the legislative process, which will also include a public comment period and environmental review under the California Environmental Quality Act." Read more. To register for the meeting, Read more.

Social Cost of Carbon Petition for Rulemaking – Colorado. On May 19, the Colorado Energy & Carbon Management Commission (ECMC) announced that environmental groups have filed a Petition for Rulemaking to Adopt a Rule to Include the Social Cost of Carbon in Cumulative Impact Analysis. The purpose of the filing is that the "Petitioners request that the Commission fulfill its statutory duty to evaluate and address cumulative climate impacts by adopting a rule requiring the quantification of greenhouse gas emissions from proposed operations, and evaluating cumulative climate impacts (at least in part) through the use of the Social Cost of Carbon ('SCC')." See the petition here. The ECMC will hold a public hearing on June 16, 2025, to consider the petition and will accept public comments by June 6, 2025. For more information on attending the virtual hearing and instructions on submitting public comments, Read more.

Clean Transportation Fuel Program – New Mexico. On May 19, the New Mexico Environment Department (NMED) announced it "has proposed a Clean Transportation Fuel Program to the state's Environmental Improvement Board (EIB). If approved, New Mexico would become the fourth state in the nation with a clean transportation fuel standard, following Gov. Michelle Lujan Grisham's signing of House Bill 41 in March 2024. This innovative market-based program would allow producers, importers, and dispensers of low-carbon fuels to generate and sell credits to those producing high-carbon fuels." Read more. According to the NMED, they "developed the proposal after extensive public input, including approximately 90 responses to a discussion draft published in December 2024. The department also met with industry representatives, environmental advocates, and tribal governments. A 60-day public comment period is expected to begin in mid-June 2025, with the EIB considering all feedback before making a final decision." You may access a copy of the petition, statement of reasons, and draft proposed rule here.

STATE – Judicial

Climate Change Lawsuit – Pennsylvania. On May 16, a Pennsylvania trial court ruled against Bucks County in a lawsuit in which the county sought to hold oil and gas companies liable for climate change. As reported, in *Bucks County v. BP P.L.C.* (Case No. 2024-01836), "The county argued defendants intentionally deceived the public about climate change and, as a result, its residents 'will continue to suffer the catastrophic impacts of climate change, including an emerging pattern of increasingly severe, damaging and at times deadly weather events.'" The court, however, "ruled that such claims cannot be handled by state courts given the fact that carbon emissions are interstate by their nature. The Clean Air Act gives the federal government sole authority to regulate emissions and preempts the ability of states to do so."

In sum, the court held, "We conclude that our federal structure does not allow Pennsylvania law, or any State's law, to address the claims raised in Bucks County's Complaint." Read more.

State Leases; Land Damage – New Mexico. On May 14, in *Richard v. Marathon Petroleum Corp.* (Case No. A-1-CA-40747), the New Mexico Court of Appeals addressed two issues in an appeal brought by the New Mexico Commissioner of Public Lands. The first was "when the Commissioner may sue in tort and under statute for damage to public lands. Marathon argues, and the court below agreed, that no tort duty may exist where that duty is also imposed by contract." Second, the court had to decide as "a matter of first impression: whether the Commissioner's approval of lease assignments relieves assignors not only of their contractual obligations, but also of obligations arising under statute and the common law." The district court agreed with Marathon that an "assignment of the oil and gas leases in this case relieved Marathon of all of its obligations to the State with respect to the land embraced in the leases, including obligations arising under New Mexico common law and statutes." However, here, the appellate court reversed, sending the case back to the trial court for further proceedings. The court noted that "Marathon argues that this interpretation [of an assignor's release from obligations] would render the release of obligations 'meaningless.' We disagree. Under our interpretation, an assignor benefits from no longer being liable for express covenants, such as paying royalties and rent, in the event their assignee fails to satisfy those obligations." But, "this says nothing about an assignor's obligations under the common law or statute" such as a tort action for negligence. Read more.

Salt Cavern Oil and Gas Storage – Texas. On May 16, the Texas Supreme Court addressed a dispute that "arose because the mineral owner and the surface owner disagree over which of them has the right to use the salt caverns under the land to store oil and gas that is produced off-site and transported to the property." In *Myers-Woodward, LLC v. Underground Services Markham, LLC* (Case No. 22-0878), the court agreed with the Thirteenth District Court of Appeals holding "that, under the conveyances at issue here, the holder of the surface estate owns the empty underground spaces left behind by the mineral owner's salt mining. The mineral owner is of course entitled to make reasonable use of both the surface and the subsurface, including caverns, for the production of the property's minerals. But empty space is not a mineral, no matter how economically valuable it becomes. And storage of hydrocarbons produced off the property is not related, at least under these facts, to the mineral owner's production of salt on the property. Absent an agreement otherwise, ownership of underground salt does not include ownership of underground empty space within or around a salt formation. Nor does it include a right to use that empty space for purposes unrelated to the production of the property's minerals." The court also addressed a dispute over the calculation of royalties on the salt, noting, "that there is somehow an enormous discrepancy between the salt's market value and the price for which USM sold the salt." On this issue, the court remanded the case back to the trial court for further proceedings. Read more.

Leasing; Written Agreements – Texas. On May 9, the Texas Supreme Court addressed a case requiring the court "to again consider the viability of claims based on alleged oral representations that are inconsistent with the parties' written contracts." In *Roxo Energy Co., LLC v. Baxsto, LLC* (Case No. 23-0564), the case involved fraud claims regarding "Roxo's representations that it would not 'flip' the lease but would instead make significant investments to develop it, (2) the size of the bonus amounts Roxo would pay to Baxsto relative to other mineral owners in the area, and (3) the promise to pay the bonus to Baxsto before recording the lease." Here, the court held that "Baxsto's claims based on alleged oral representations made by Roxo's CEO" and a private equity investment firm "that contradicted express terms or went unmentioned in the parties' formal written agreements were properly dismissed on summary judgment by the trial court." As noted by law firm Baker Botts, "The opinion reinforces the Court's trend of disfavoring "the viability of claims

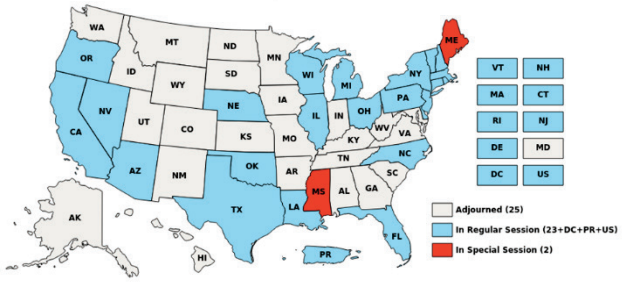
based on alleged oral representations that are inconsistent with the parties' written contracts." Read more.

INDUSTRY NEWS FLASH

▶ **TIPRO reports uptick in upstream oil and gas employment.** As reported by *Rigzone*, analysis from the Texas Independent Producers and Royalty Owners Association (TIPRO) shows "direct Texas upstream employment for April totaled 206,000." TIPRO also "highlighted that the April figure was 'an increase of 1,700 industry positions from March employment numbers, subject to revisions.'" This "represented an increase of 900 jobs in the services sector and 800 jobs in oil and gas extraction." Read more.

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Twenty-three states are currently in regular session. The **U.S. Congress** is also in session.

The following states adjourned their 2025 legislative sessions on the dates provided: **Alaska** (May 20), **Oklahoma** (May 30), **Illinois** (May 31), **Nevada** and **Texas** (June 2).

The following states are scheduled to adjourn their 2025 legislative sessions on the dates provided: **Connecticut** (June 4) and **Nebraska** (June 9).

Mississippi Republican Gov. Tate Reeves called the legislature into a special session that began on May 28. According to Mississippi Today, the special session is focused on passing the state's $7 billion budget for the coming budget year that begins on July 1.

Missouri Republican Gov. Mike Kehoe called a special session for June 2. According to the Missouri Independent, the special session is expected to focus on disaster recovery following the devastation from tornadoes as well as funding for major sports stadiums and other major capital improvements.

Governor Signing Deadlines (by date): **Maryland** Democratic Gov. Wes Moore had until May 27 to act on legislation or it became law without signature. **Minnesota** Democratic Gov. Tim Walz has until June 2 to act on legislation or it is pocket vetoed. **Colorado** Democratic Gov. Jared Polis has until June 6 to act on legislation or it becomes law without signature. **Iowa** Republican Gov. Kim Reynolds has until June 14 to act on legislation or it is pocket vetoed. **Missouri** Republican Gov. Mike Kehoe has until July 14 to act on legislation or it becomes law without signature. **Alabama** Republican Gov. Kay Ivey has 10 days from presentment, Sundays excluded, to act on legislation or it becomes law without signature. **Alaska** Republican Gov. Mike Dunleavy has 20 days from presentment, Sundays excluded, to act on legislation or it becomes law without signature. **Kansas** Democratic Gov. Laura Kelly has 10 days from presentment to act on legislation or it becomes law without signature. **Michigan** Democratic Gov. Gretchen Whitmer has 14 days from presentment to act on legislation or it is pocket vetoed. **Montana** Republican Gov. Gregory Gianforte has 10 days from presentment to act on legislation it becomes law without signature. **South Carolina** Republican Gov. Henry McMaster has five days from presentment, Sundays excluded, to act on legislation or it becomes law without signature. **Tennessee** Republican Gov. Bill Lee has 10 days from presentment, Sundays excluded, to act on legislation or it becomes law without signature.

The following states are currently holding 2025 interim committee hearings and posting interim studies: **Alabama**, **Arkansas**, **Colorado**, **Georgia**, **Hawaii**,

Kansas, Kentucky, Maryland, Minnesota, New Mexico, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington and Wyoming. ■

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