

GOVERNMENTAL AFFAIRS REPORT

FEDERAL – Legislative

S. J. Res. 102 – Resolution to Nullify the Biden Administration Rule Regarding the Endangered Species Status for the Dunes Sagebrush Lizard.

On July 16, official text was published for [S. J. Res. 102](#), a joint resolution introduced by Sen. Ted Cruz (R-TX) seeking to nullify the recent endangered species designation by the U.S. Fish and Wildlife Service for the Dunes Sagebrush Lizard. (See *Endangered and Threatened Wildlife and Plants; Endangered Species Status for the Dunes Sagebrush Lizard*; [89 Fed. Reg. 43748](#); May 20, 2024). The rule, which went into effect June 20, 2024, “will undermine the utilization of land for oil and gas production in the Permian Basin and increase energy costs for American consumers,” according to the *Texas Insider*. [Read more](#). As covered in prior reports, the rule has also been opposed by the Texas Railroad Commission as well as other state and federal lawmakers. Sen. Cruz said, “The Biden administration has used the federal government to suppress American energy production at the exact time when the country and indeed the world needs access to affordable American energy. This disastrous rule threatens American jobs and undermines the production of energy in the Permian Basin. I call on the Senate to expeditiously take up and pass my legislation to reverse it.” [Read more](#).

FEDERAL – Regulatory

BLM Oil and Gas Development in the National Petroleum Reserve – Alaska. On July 12, the Bureau of Land Management (BLM) announced it will be seeking public comment on potential expansion of areas protected from oil and gas development in the National Petroleum Reserve – Alaska. (See *Special Areas Within the National Petroleum Reserve in Alaska*;

[89 Fed. Reg. 58181](#); July 17, 2024) As reported by *The Hill*, “The protections, if implemented, could expand the area of the National Petroleum Reserve in Alaska (NPR-A), which has been restricted from development, or identify new protections in the existing protected area. During the 60-day comment period, the Bureau will also consult with tribal communities in the affected areas.” The public comment period will close on September 16, 2024. [Read more](#). “We have a responsibility to manage the western Arctic in [a] way that honors the more than 40 Indigenous communities that continue to rely on the resources from the Reserve for subsistence,” said BLM Director Tracy Stone-Manning. “With the rapidly changing climate, the Special Areas are increasingly critical to caribou movement and herd health, as well as other wildlife, migratory birds, and native plants. We want to hear from the public to ensure we are managing the western Arctic’s significant resource values in the right ways and right places.” [Read more](#).

BLM Big Game Habitat Conservation for Oil and Gas Management – Colorado. On July 19, the BLM published a *Notice of Availability of the Proposed Resource Management Plan Amendment and Final Environmental Impact Statement for Big Game Habitat Conservation for Oil and Gas Management in Colorado* ([89 Fed. Reg. 58749](#)). According to the notice, “The proposed RMP amendment addresses alternative approaches for oil and gas management to maintain, conserve, and protect big game high priority habitat (HPH). The planning area includes all counties in Colorado and encompasses approximately 8.3 million acres of public land and approximately 27 million acres of Federal mineral estate. The decision area includes all 8.3 million acres of BLM-administered surface land (except where Federal minerals have been withdrawn from mineral leasing) plus approximately 4.7 million acres of Federal mineral split estate where the surface is owned by private owners, local government, or the

State.” As reported by *E&E News*, the BLM proposal “would revamp land use plans covering millions of acres in Colorado to place new restrictions that balance oil and gas development with protecting key habitat corridors for big game species.” [Read more.](#)

BLM Environmental Impact Statement for the Farmington Mancos-Gallup Resource Management Plan Amendment – New Mexico. On July 12, the BLM published a notice of termination, *Termination of Preparation of the Environmental Impact Statement for the Farmington Mancos-Gallup Resource Management Plan Amendment, New Mexico* ([89 Fed. Reg. 57165](#)), that terminates “the preparation of an environmental impact statement (EIS) for the Farmington Mancos-Gallup Resource Management Plan (RMP) Amendment.” Originally, “The purpose of the EIS was to analyze the impacts of additional oil and gas development within the San Juan Basin in northwestern New Mexico, as well as decisions related to lands and realty, BLM-managed lands with wilderness characteristics, and vegetation management. The EIS was also to evaluate alternatives and issues related to the BIA’s authority over mineral leasing and associated activity decisions on Navajo Tribal Trust Lands and Navajo Indian allotments.” But according to the BLM notice, the “changes and the extent of revisions necessary to address these changes in the current EIS process, the agencies determined it is impractical to continue the plan amendment effort as currently structured. Therefore, the BLM and BIA hereby terminate preparation of the EIS for the RMP Amendment.” [Read more.](#)

BLM Resource Advisory Council – Utah. On July 18, the BLM announced upcoming Utah Resource Advisory Council (RAC) meetings and field tours beginning in November 2024. Agenda topics include “updates and overview of BLM district and statewide planning efforts including hard rock mining, travel management plans, solar and geothermal energy development” and includes “updates and overview of BLM district and State planning efforts, including Administration priorities, the Grand Staircase-Escalante National Monument Resource Management Plan.” RAC meetings and field tours are open to the public. [Read more.](#)

BLM Oil and Gas Lease Sale – Wyoming. On July 5, the BLM Wyoming State Office “opened a 30-day public comment period on 13 oil and gas parcels that could be included in an upcoming lease sale in December. The parcels total 6,604.85 acres and are located in the Cheyenne area of Laramie County.” The public comment period for the sale ends on August 8, 2024. [Read more.](#)

FEDERAL – Judicial

Environmental Impacts Regulations – U.S. Supreme Court. The U.S. Supreme Court has granted review for the Fall 2024 term in [Seven County Infrastructure Coalition v. Eagle County, CO](#) (Case No. 23-975), which challenges the scope of a Surface Transportation Board environmental review under the National Environmental Policy Act (NEPA) for an 88-mile crude rail line project in Utah. [Read more.](#) As reported by law firm Hunton Andrews Kurth LLP, “The question before the Court is whether NEPA requires federal agencies to study the environmental impacts of proposed projects beyond the proximate effects of the action that an agency has no authority to regulate. The petitioners contend that the D.C. Circuit’s decision ordering the Board to study the downstream effects of approving the rail line on the expansion of oil production from oil wells and refineries, which lie outside the Board’s regulatory authority, was in error and contrary to the Supreme Court’s interpretation on the scope of agency authority” under prior precedent. As reported, “The Supreme Court’s decision, in this case, could have important implications for NEPA analyses going forward, including on the scope of the White House Council on Environmental Quality’s [new rules](#), published in May 2024, directing agencies to quantify, where feasible, the reasonably foreseeable GHG emissions from a proposed project. A decision to overturn the D.C. Circuit in this case would avoid broad NEPA reviews and keep an agency’s focus on effects that are more closely related to the authorized activity. Such clarification from the Court could help avoid delays that are often associated with wide-ranging NEPA reviews that are not cabined by the agency action at issue.” We will continue to keep AAPL members informed as the case progresses. [Read more.](#)

BLM Oil and Gas Approvals – Alaska. On July 16, a federal judge in [Cook Inletkeeper v. U.S. Dept. of the Interior](#) (Case No. 3:22-cv-00279-SLG) ordered the Bureau of Ocean Management (BOEM) to conduct a supplemental environmental impact statement regarding a December 2022 oil and gas lease sale. Here, the court “found that the BOEM failed to consider a reasonable range of alternative leasing areas, did not weigh the impact of vessel noise on beluga whales in the area and did not assess the ‘cumulative impact’ of the sale on the environment.” As reported by the *Oil and Gas Journal*, the BOEM “could not issue oil and gas drilling permits until they conduct supplemental environmental assessments” under the National Environmental Policy Act. The court gave the BOEM “6 months to reevaluate the effects drilling would have on the environment.” [Read more.](#)

Biden Administration LNG Export Ban – Louisiana. As a follow up to our prior reporting, on July 1, the U.S. District Court for the Western District of Louisiana ruled against the Biden administration in the pending case, [Louisiana v. Biden](#) (Case No. 2:24-cv-00406-JDC-TPL) by granting a preliminary injunction against the LNG export ban. For background, “Texas, along with Louisiana and fourteen other states, filed a lawsuit to void the unconstitutional LNG export ban, which ignores the Natural Gas Act’s presumption in favor of exports, and decades of Department of Energy policy, as well as State and private reliance on exports.” According to Texas Attorney General Ken Paxton, “This ruling means Biden’s illegal ban does not prevent Texas natural gas from reaching market while the lawsuit continues.” [Read more.](#)

Alaska Lawsuit Over Cancelled Oil and Gas Leases – Court of Federal Claims. On July 2, the state of Alaska filed a complaint against the Biden administration that “seeks compensation owed to the State of Alaska due to the United States’ decision to cancel oil and gas leases from which the State would have earned hundreds of millions or even billions of dollars in royalties and other revenues.” In [Alaska v. United States](#) (Case No. not yet docketed) the state argues, among other claims, that “Oil and gas leases

are contracts, and by cancelling the Coastal Plain oil and gas leases, the United States breached those contracts. The State of Alaska, as a beneficiary of those contracts, is entitled to receive compensation from the United States in the form of the State’s contract-based damages—namely, the royalty revenues the State would have earned from production under the leases as well as the State’s share of the bonus and rentals that were paid or were to be paid under the leases. Additionally, the State’s royalty rights for the Coastal Plain minerals are a well-recognized property interest. The United States’ policy decision has effectively deprived the State of that property interest by making it valueless. As such, the State is entitled to just compensation pursuant to the Fifth Amendment.” This follows another recent lawsuit, also brought by Alaska, “challenging new federal regulations imposed for oil and gas leasing in the National Petroleum Reserve-Alaska (NPR-A).” [Read more.](#) We will continue to keep AAPL members updated as these cases progress. [Read more.](#)

FTC Noncompete Ban Temporarily Halted – Texas. (*Update to 4/29/24 Report*) On July 3, the U.S. District Court for the Northern District of Texas (Dallas) temporarily halted the Federal Trade Commission (FTC) from enforcing its new noncompete rule against the plaintiffs in [Ryan LLC v. Federal Trade Commission](#) (Case No. 3:24-cv-00986-E). As reported by law firm Holland & Knight, “The Rule – which prohibits virtually all employee non-compete agreements with limited exceptions – has an effective date of Sept. 4, 2024. The court’s order prohibits the FTC from enforcing the Rule against the plaintiffs until the court decides on the ultimate merits of the action, which the court will do on or before Aug. 30, 2024. This order is preliminary, and there is another federal court case pending in Pennsylvania that challenges the Rule. Legal challenges are expected to wind through the U.S. Courts of Appeal and perhaps to the U.S. Supreme Court. In the meantime, the court’s preliminary injunction in *Ryan* is a significant initial win for businesses challenging the Rule.” [Read more.](#) The other case plaintiffs are the U.S. Chamber of Commerce, Business Roundtable, Texas Association of Business, and Longview Chamber

of Commerce. Notably, the court did not grant a nationwide injunction at this stage. [Read a detailed analysis of the rule and the current case status here](#) and [here](#).

BLM Oil and Gas Approvals – Wyoming. Related to the case above in Alaska, on July 16, a separate federal judge ordered the BLM to temporarily pause approval of new oil and gas drilling permits on nearly 120,000 acres of federal land in Wyoming until it finishes reevaluating the environmental impacts of a lease sale under the National Environmental Policy Act (NEPA). In *Wilderness Society v. U.S. Dept. of Interior* (Case No. 1:22-cv-01871-CRC), the court ordered the BLM to conduct further environmental review to “cure the deficiencies in its prior NEPA analysis.” As such, the court stopped the BLM “from approving new applications for a permit to drill or authorizing new surface disturbance on the leased parcels during the remand period, which shall be no more than 180 days.” [Read more](#).

STATE – Legislative

Carbon Dioxide Capture, Utilization, and Sequestration – Pennsylvania. On July 17, Gov. Josh Shapiro (D) signed [SB 831](#) into law. Sponsored by Sen. Gene Yaw (R), the bill “establish[es] the legal and regulatory framework for potential carbon dioxide capture, utilization, and sequestration (CCUS) in Pennsylvania.” The bill provides “for the ownership of pore space in strata below surface lands and waters of the Commonwealth, for conveyance of the surface ownership of real property; imposing duties on the Department of Environmental Protection; and establishing the Carbon Dioxide Storage Facility Fund.” [Read more](#). Sen. Yaw said, “This legislation is a proactive step to secure Pennsylvania’s future as a hub for carbon capture and sequestration. It’s a pragmatic solution to a problem that we all want to solve – reducing our carbon emissions without crippling the reliability of our existing power grid.” The bill takes immediate effect. [Read more](#).

Omnibus Tax Bill – Pennsylvania. On July 11, Gov. Josh Shapiro (D) signed [SB 654](#) into law.

This omnibus tax bill contains a provision “gradually increasing the net operating loss limit that can be carried over from 40% of taxable income to 80% by 2026, aligning it with the federal threshold, supported by Democrats and Republicans in both chambers, as well as business groups that have been advocating for such legislation” and also “includes provisions that would let businesses use the same calculations they use under the U.S. tax code to determine the loss of value for mines, oil and gas wells, and other natural deposits—also known as costs and percent of depletion.” *Marcellus Drilling News* also reports that under the bill, “individual landowners will receive the same tax benefits afforded to investors. If a company buys mineral rights and the right to receive royalty payments from oil and gas well production, the company, under IRS rules, gets to claim a simple percentage depletion allowance. Essentially, the company only pays income tax on 85% of the royalties it receives. Under SB 654, that same allowance will now apply to landowners in PA.” [Read more](#).

For all 590+ 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

Cost Estimate Regulations for Oil and Gas Operations – California. To follow up our 2023 reporting where we provided members with an opportunity to submit public comments, the California Geologic Energy Management Division (CalGEM) has announced that their Cost Estimate Regulations for Oil and Gas Operations will go into effect Oct. 1, 2024. [Access the CalGEM regulations here](#). According to CalGEM, this action “adopts regulations to establish a process and criteria for oil and gas well operators to report the operator’s total liability to plug and abandon wells and decommission all attendant production facilities in accordance with [Public Resources Code](#)

[section 3205.7.](#)” For more background on the rulemaking, access CalGEM’s [original notice of proposed rulemaking here](#).

Personal Income Tax Rate Decrease – West

Virginia. On July 11, West Virginia Governor Jim Justice (R) announced that the state's personal income tax rate will drop by 4% starting on January 1, 2025. The reduction "was triggered after the state's revenue collections surpassed the rate of inflation, as stipulated in [House Bill 2526](#), which the [Governor signed](#) in 2023." Gov. Justice said, "This is another huge achievement for West Virginia. We've worked hard to make sure our state's economic growth translates to real benefits for our citizens. Nothing will drive population, opportunity, and economic growth in West Virginia like eliminating our personal income tax." [Read more.](#)

State Oil and Gas Lease Bidding – Wyoming.

As reported by *WyoFile* on July 15, “Wyoming has narrowed its definitions for who can bid on state oil and gas lease parcels, disqualifying parties that intend to conserve the land rather than produce the mineral resources.” This regulatory change ([read the rulemaking here](#)) “made under emergency rulemaking in June, was mandated by [House Bill 141 – State land oil and gas leases-operator requirement](#), which the Legislature passed [during the budget session](#). Rep. Cyrus Western (R-Big Horn) brought the bill on behalf of the Petroleum Association of Wyoming. The association raised concerns over the state’s vetting process after the Lander-based conservation group Wyoming Outdoor Council last July placed bids on a state oil and gas lease parcel in Sublette County intending to spare it from development.” [Read more.](#)

STATE – Judicial

Climate Change Lawsuit – Maryland. As an update to our coverage dating back to 2018, on July 10, a Baltimore judge dismissed the long-running climate change lawsuit against more than two dozen oil and gas companies in [Baltimore v. BP P.L.C.](#) (Case No. 24-C-18-004219) in a victory for the industry. In what has been described as “a sizable defeat for environmental activists” the Democrat-appointed judge

ruled “that the city cannot regulate global emissions and swatted down the city’s arguments that it merely sought climate-related damages from the defendants, not the abatement of their emissions.” [Read more.](#)

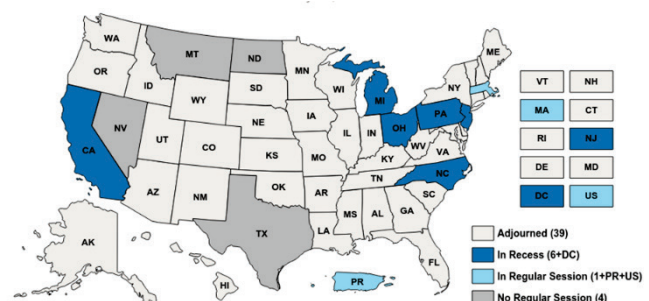
The judge “further stated that the court does not accept the city’s contention that it does not seek to ‘directly penalize emitters.’” In sum, the court held, “Whether the complaint is characterized one way or another, the analysis and answer are the same—the Constitution’s federal structure does not allow the application of state law to claims like those presented by Baltimore [...] Global pollution-based complaints were never intended by Congress to be handled by individual states.” [Read more.](#)

INDUSTRY NEWS FLASH

► **Energy sector jobs continue to outpace prior growth.** As reported by *Rigzone* on July 15, “The energy services sector in the United States employed 647,636 people last month, outgrowing job gains in the same period a year ago, according to the Energy Workforce & Technology Council.” Employment data shows “Texas supported the most jobs in the sector last month with 315,593 people employed, followed by Louisiana with 54,078 and Oklahoma with 49,285.” [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



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

Nebraska Republican Gov. Jim Pillen announced his plans to call a special session on July 25 to address property tax relief. According to the [Nebraska Examiner](#), Governor Pillen announced his intentions to bring the legislature together for a special session over the summer to reduce property tax obligations for residents after a previous plan to reduce property taxes failed to pass during the regular session.

Oklahoma lawmakers held a special session on July 15. According to [The Norman Transcript](#), legislators selected Sen. Lonnie Paxton, R-Tuttle, as the new Senate President Pro Tem designate, which will be formalized with a vote in November. They also confirmed Jennifer Callahan to the Oklahoma A&M Board of Regents.

Signing Deadlines (by date): **Alaska** Republican Gov. Mike Dunleavy has 20 days from presentment, excluding Sundays, to act on legislation or it becomes law without signature. **Illinois** Democratic Gov J.B. Pritzker has 60 days from presentment 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](#), [Alaska](#), [Arizona](#), [Arkansas](#), [Colorado](#), [Connecticut](#), [Georgia](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Minnesota](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [New York Assembly](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#), [Oregon](#), [Rhode Island](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Texas House](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#) and [Wyoming](#).

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

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