

# GOVERNMENTAL AFFAIRS REPORT

## Weekly Highlights At-A-Glance

### FEDERAL – Legislative

#### **S. 4049 – Oversight to Lower Oil Prices Act.**

On April 7, Sen. Maggie Hassan (D-NH) introduced [S. 4049](#), known as the *Oversight to Lower Oil Prices Act*. The bill would require “the Federal Trade Commission (FTC) to investigate whether companies are manipulating prices on oil and gas and driving up costs for consumers. The bill requires the FTC to report back to Congress with their findings.” According to Sen. Hassan, “The administration must take action to investigate whether Big Oil is artificially raising prices and illegally manipulating the market for their own gain.” [Read more.](#)

#### **S. 3989 – Landowner Easement Rights Act.** On April 4, Sen. Kevin Cramer (R-ND) introduced S. 3989, known as the *Landowner Easement Rights Act*.

The bill “prohibits the Department of the Interior from entering into a conservation easement with a term of more than 50 years. The bill sets forth requirements for the renegotiation of a conservation easement at the request of an owner of land that is subject to a conservation easement that (1) has been in effect for longer than 50 years, or (2) was put into effect before 1977 without the creation of an official corresponding map. Interior shall notify such an owner of the owner's right to submit a request.” [Read more.](#)

### FEDERAL – Regulatory

**BLM Lease Sales.** After nearly 18 months without holding a federal onshore oil and gas lease sale, the Interior Department has announced it is finally resuming lease sales. The Interior Department also announced it is increasing the royalty rate from 12.5 percent to 18.75 percent for the first time ever. [Read more.](#) To that end, on April 18, the Bureau of Land Management (BLM) issued official lease notices for

sales covering Colorado, Montana/Dakotas, Nevada, New Mexico, Utah, and Wyoming. The Colorado sale will be “offering nine parcels totaling 5,275.82 acres in Jackson, Moffat, Rio Blanco and Weld counties. The parcels will be offered at the online oil and gas lease sale scheduled for June 16.” [Read more.](#) The Montana/Dakotas sale will be “offering 23 parcels totaling 3,405.8 acres in Fallon, Powder River, Richland and Roosevelt Counties in Montana, and McKenzie, Mountrail, and Williams Counties in North Dakota, on public lands managed by the Miles City Field Office and North Dakota Field Office. The parcels will be offered at the online oil and gas lease sale scheduled for June 28.” [Read more.](#) The Nevada sale will be “offering 5 parcels totaling 2,560 acres in Nye County on public lands managed by the Battle Mountain District Office. The parcels will be offered at the online oil and gas lease sale scheduled for June 14.” [Read more.](#) The New Mexico sale will be “offering six parcels totaling 535.72 acres in Chaves and Lea counties in New Mexico and Dewey County in Oklahoma. The parcels will be offered at the online oil and gas lease sale scheduled for June 16.” [Read more.](#) The Utah sale will be “offering one parcel totaling 160 acres in Uintah County on public lands managed by the Vernal Field Office. The parcel will be offered at the online oil and gas lease sale scheduled for June 28.” [Read more.](#) The Wyoming sale will be “offering 129 parcels containing about 131,771 acres of public minerals. The parcels will be offered at the online oil and gas lease sale scheduled for June 21-22.” [Read more.](#) All BLM lease sale notices open up a 30-day public protest period ending May 18, 2022. [Read more.](#)

#### **Interior Department Renewable Energy Projects.**

The Interior Department [has issued a new report](#) showing approval of more than 120 renewable energy projects with combined generating capacity of 12,000

megawatts. This is part of “a series of steps taken to advance the Biden-Harris administration’s goal to permit 25 gigawatts of renewable power on public lands by 2025.” The report focuses on forecasted additional renewable energy activity, identified improvements to energy corridors in the West, a renewed and updated policy that will enable staff to better screen and prioritize solar and wind energy projects on public lands, and touts that advanced renewable energy projects will help to create jobs. [Read more.](#)

**Office of Natural Resources Revenue.** On April 13, the Interior Department’s Office of Natural Resources Revenue (ONRR) published a final rule, “Mailing and Email Address Amendments” (87 Fed. Reg. 21743). For those conducting business with the ONRR the final rule serves “to update room number, mailstop, and other information for filing certain forms by mail, courier, or overnight delivery. It also provides email addresses for filing certain forms electronically.” The rule is effective May 13, 2022. [Read more.](#)

**National Environmental Policy Act Revisions.** (*Update to 10/25/21 Weekly Report*) On April 19, the White House Council on Environmental Quality (CEQ) issued a final rule to amend certain provisions of its regulations for implementing the National Environmental Policy Act (NEPA), “National Environmental Policy Act Implementing Regulations Revisions” (87 Fed. Reg. 23453) and which could negatively impact domestic energy projects. AAPL has been reporting on this issue since 2020, and providing members with multiple opportunities for public comment, since the Trump administration relaxed certain NEPA regulations that were more favorable to industries subject to environmental regulations. The Biden administration has been working to rescind those regulations since 2021. [Read more.](#) In short, “The latest rule from CEQ will restore a requirement that agencies issue separate evaluations of direct, indirect, and cumulative effects of a proposed project. The Trump changes directed agencies to evaluate all effects together rather than in separate buckets, so long as the effects are ‘reasonably foreseeable.’” According to the *Oil & Gas Journal*, representatives for

oil and gas companies, with experience in lengthy NEPA permitting processes and legal disputes, “said the Biden CEQ changes mean more uncertainty and conflict, not less.” Frank Macchiarola, an American Petroleum Institute senior vice-president, “issued a statement saying the NEPA rewrite adds more red tape to the permitting process, not only for oil and gas projects but for wind farms, solar farms, hydrogen development, and carbon capture, use, and storage.” Macchiarola added, “We urge the administration to change course and establish a timely and efficient permitting process that supports the energy security needs of the US and our allies overseas.” For background, on October 7, 2021, the Biden administration began the rollback of the Trump-era NEPA policies as the CEQ issued a Phase One Notice of Proposed Rulemaking, “National Environmental Policy Act Implementing Regulations Revisions” (86 Fed. Reg. 55757), which would revise regulations implementing NEPA, and which apply to oil and gas development projects. For example, the group Project NEPA reported that “Before an oil or gas company can conduct exploration or begin production activities, NEPA requires the completion of an environmental assessment to determine if a project is likely to have significant impacts on the environment. If the agency finds there will be a significant impact, it is then required to conduct the more stringent environmental impact statement (EIS) in order to meet the proper consideration and opportunity for public comment requirements.” [Read more.](#) The Biden administration rulemaking takes a more stringent approach to that process than those finalized under the Trump administration. According to the CEQ, the rulemaking would “generally restore regulatory provisions that were in effect for decades before being modified in 2020. CEQ proposes these changes in order to better align the provisions with CEQ’s extensive experience implementing NEPA, in particular its perspective on how NEPA can best inform agency decision making, as well as longstanding Federal agency experience and practice, NEPA’s statutory text and purpose, including making decisions informed by science, and case law interpreting NEPA’s requirements.” The 2020 Trump rulemaking streamlined the NEPA review process and also limited the scope of environmental

reviews. Specifically, it removed requirements to consider climate change before proceeding on a project and allowed for greater industry involvement in reviewing the environmental effects of their projects. The Trump administration argued the NEPA changes were necessary to “modernize” a law that can delay projects with environmental reviews that can last as long as four years. The final rule is effective May 20, 2022. [Read more.](#)

**SEC Climate Disclosure Rulemaking.** On April 11, the U.S. Securities and Exchange Commission (SEC) formally published proposed rulemaking that would mandate corporate reporting of climate risks and greenhouse gas (GHG) emissions. [See SEC Press Release here.](#) The proposal already attracted industry attention when first released as a draft at the end of March. *Bloomberg News* called this “a major shift in how corporations must show they are dealing with climate change.” Further, “For the first time ever, the agency plans to require businesses to outline the risks a warming planet poses to their operations when they file registration statements, annual reports or other documents. Some large companies will have to provide information on emissions they don’t make themselves but come from other firms in their supply chain.” As reported by the *Oil & Gas Journal*, [the proposed rule](#), entitled “The Enhancement and Standardization of Climate-Related Disclosures for Investors” ([87 Fed. Reg. 21334](#)), “would require disclosures of information about climate-related risks that are reasonably likely to have a material impact on their business, results of operations, or financial condition. The SEC suggested its plan would require commonly used metrics that would make it easier for investors to assess the relative risk profiles of different companies. The risks cited by the SEC proposal include not only what the public might imagine — changes in weather, for example — but regulatory, technological, and market risks driven by a transition to a lower-GHG intensive economy. The proposed rule would require a company to disclose information about the company’s governance or high-level oversight and management policies for climate-related risks. Such disclosures would be part of the environmental, social, and governance reporting that many people have begun demanding from

businesses.” [Read more.](#) “Companies will be required to calculate these potential costs from data they already compile for regular disclosures to investors.” [Read more.](#) You may also access a detailed [AAPL Governmental Affairs Fact Sheet here.](#)

## **FEDERAL – Judicial**

**Leasing – West Virginia.** On January 27, in *Benson v. High Road Operating, LLC* (Case No. 5:20-CV-00229), the U.S. District Court for the Northern District of West Virginia addressed a leasing dispute involving a Paid-Up Oil and Gas Lease, (2) Addendum to the Lease, (3) Order of Payment — Oil & Gas Lease Bonus, and (4) Memorandum of Lease. The dispute centered around the nonpayment of bonuses and the plaintiffs claimed the lease was breached by failing to tender the bonus payments. The defendant lessee, however, argued that (1) a valid and enforceable contract was never formed; (2) even if there was a contract, conditions precedent to performance were not satisfied; and (3) defendant’s obligation was discharged by a condition subsequent. Further, the defendant argued that the undisputed facts show that the defendant has in no way breached any obligation it had to tender bonus payments to the plaintiffs because its management did not approve the lease, which was an express condition precedent. Here, the Court held that the defendant was not obligated to tender bonus payments because the lease was never “fully executed and notarized,” as the defendant never signed or notarized it. In sum, the court held that the defendant did not breach its contractual duty because the condition precedent to defendant’s obligation to tender bonus payments was not satisfied.” [Read more.](#)

## **STATE – Legislative**

**National Petroleum Reserve – Alaska.** (*Update to 2/28/22 Report*) On April 20, HJR 34 was enacted. Sponsored by Rep. Josiah Patkotak (I), this joint resolution expresses the legislature’s support of oil and gas leasing and development within the National Petroleum Reserve in Alaska but has no weight of law mandating any action. [Read more](#)

**Orphaned Wells – Colorado.** On April 7, Sen. Stephen Fenberg (D) introduced SB22-198. The bill creates the orphaned wells mitigation enterprise in the Department of Natural Resources for plugging, reclaiming, and remediating orphaned wells located in the state for which no owner or operator can be found or for which the owner or operator is unwilling or unable to pay the costs of plugging and abandoning the well; ensuring that the costs associated with the plugging, reclaiming, and remediating of orphaned wells are borne by operators in the form of mitigation fees; and determining the amounts of mitigation fees; and imposing and collecting mitigation fees.  
[Read more.](#)

**Oil and Gas Reporting – Colorado.** On April 4, Rep. Andrew Boesenecker (D) introduced HB22-1361. The bill relates to oil and gas reporting and would require an oil and gas operator to conduct meter certification and calibration on an annual basis and submit an annual report to the Oil and Gas Conservation Commission that describes the results of that meter certification and calibration and also establishes a maximum penalty of \$1,000 per day per violation for oil and gas operators in relation to violations related to the filing of air pollution emission notices with the Division of Administration in the Department of Public Health and Environment. [Read more.](#)

**Ad Valorem Credits; Severance Tax – Colorado.** On April 19, Rep. Julie McCluskie (D) introduced HB22-1391. “The bill changes the calculation of the ad valorem credit allowed against the state severance tax on oil and gas. In tax years beginning on and after January 1, 2024, the credit for ad valorem taxes is calculated on a per-well basis for wells that are not exempt from taxation by applying the prior year’s mill levy to the current year’s gross income multiplied by an assessment rate of 87.5%, and taking 87.5% of that amount for the credit. This calculation is simplified to multiplying 76.56% of the gross income of the well by the mill levy fixed in the prior calendar year.  
[Read more.](#)

**Unauthorized Practice of Law – Kentucky.** (*Update to 1/17/22 Report*) On April 8, Gov. Andy Beshear (D)

signed HB 256 into law. Sponsored by Rep. Daniel Elliott (R), the Act amends existing law “to increase the class of the crime of the unauthorized practice of law from a Class B misdemeanor for the first offense to a Class A misdemeanor, and establish each subsequent offense as a Class D felony.” The Act is effective 90 days following the end of session (March 30, 2022.)  
[Read more.](#)

**Orphan Wells – Kentucky.** On April 8, Gov. Andy Beshear (D) signed SB 315 into law. Sponsored by Sen. Robby Mills (R), the Act amends the definition of “orphan wells” as well as providing for funds and grants related to remediation. The Act takes immediate effect. Companion bill, [HB 669](#), sponsored by Rep. D.J. Johnson (R), was also signed into law on April 8 and takes immediate effect. [Read more.](#)

**Oil and Gas Incentive Rebates – Louisiana.** On April 18, SB 390, sponsored by Sen. Mack Bodi White (R), was subject to a committee hearing. The bill would provide incentive rebates for oil and gas exploration and production. [Read more.](#)

**Noncompete Agreements – Louisiana.** On April 5, HB 1037 was introduced by Rep. Mandie Landry (D). The bill amends existing law regarding provisions related to noncompete contracts and agreements in employment arrangements. Specifically, among other provisions, the bill would repeal existing law that provides that an independent contractor, whose work is performed pursuant to a written contract, may enter into a noncompete agreement for a period not to exceed two years from the date of the last work performed under the written contract. [Read more.](#)

**Remote Notarial Acts – Louisiana.** On April 5, HB 903 was introduced by Rep. Greg Miller (R). The bill amends present notary law to provide that a remote online notarial act is deemed to be executed in any parish where the notary is physically located.  
[Read more.](#)

**Domestic Oil Production – Louisiana.** On April 4, HCR 49 was introduced by Rep. Valarie Hodges (R). This resolution “Memorializes the U.S. Congress to

request the President of the U.S. to encourage increased domestic oil production.” [Read more.](#)

**Will and Trust Instruments; Electronic Execution – Maryland.** On April 21, Gov. Larry Hogan (R) signed [HB 576](#) and companion Senate bill [SB 36](#) into law. The bipartisan bills authorize “a person to execute an electronic will or remotely witnessed will without a notary public if the supervising attorney creates a certified will that contains a certain form attached or annexed to the will; prohibiting a supervising attorney from being a witness to an electronic will or remotely witnessed will if the will is executed without a notary public; and authorizing a notary public located in the State to perform a notarial act using communication technology for a remotely located individual for a trust instrument.” Both bills take immediate effect. [Read more.](#)

## STATE – Regulatory

**Hydrogen Hubs – New Mexico.** On April 20, New Mexico Environment Department Secretary James Kenney appeared on the K&L Gates law firm’s podcast, *Hydrogen Rising*, to discuss how New Mexico “is one of the leading states in the country in its efforts to advance the hydrogen economy.” Kenney discussed “a number of those initiatives, including the State’s proposed financing of hydrogen development via public-private partnerships, its partnership with the U.S. Department of Energy’s Los Alamos and Sandia national laboratories on hydrogen best practices, and the Western Inter-State Hydrogen Hub (WISHH) alliance which the states of New Mexico, Colorado, Utah, and Wyoming entered into with the intention of bidding into the U.S. Department of Energy’s clean hydrogen hub \$8B funding opportunity.” [Read more and access the podcast recording here.](#)

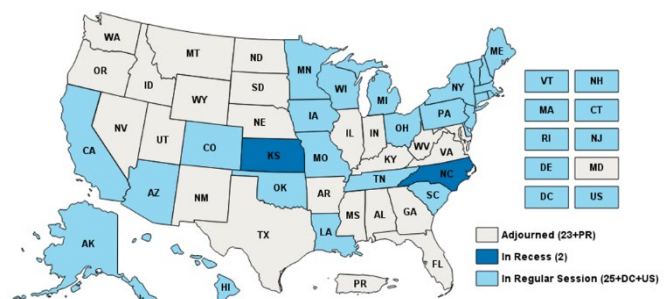
## INDUSTRY NEWS FLASH

► **Permian drilling permits hit all-time monthly high.** According to Rystad Energy research data, “Horizontal drilling permits for new wells in the Permian basin hit an all-time high in March, with 904 total permit awards, driven by elevated oil prices and production demand. Weekly approved permits have hovered between 188 and 227 since Mar. 7, 2022, an unprecedented period of high activity that pushed the 4-week average to 210 for the week ending Apr. 3, a record for horizontal permit approvals in the US shale play over 4 weeks.” [Read more.](#)

► **Canada has shortage of oil and gas workers.** According to the Canadian Association of Energy Contractors (CAOEC), there is a shortage of oil and gas workers in Canada. “After years of sector instability and a recession, many workers pivoted to careers outside the oil and gas industry,” a CAOEC spokesperson told *Rigzone*. “Signals of long-term recovery and positive messaging from leaders would help potential workers understand the many options and career prospects available in Canada’s energy sector.” [Read more.](#)

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes:** Alaska, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Iowa, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, and



**Wisconsin** are in regular session. The **U.S. Congress** is also in session.

**Kansas** recessed for a three-week-break on April 1, considered "first adjournment", as reported by the [Kansas Reflector](#). The legislature will reconvene on April 25 for a veto session where lawmakers can decide to override vetoes on proposals rejected by Democratic Gov. Laura Kelly.

**North Carolina** is in recess until May 4. The legislature will meet again from May 4-6 with the session limited to a specific itemized agenda outlined in [SJR 748](#). Most North Carolina leadership, however, does not anticipate any substantial action until the beginning of the Short Session on May 18.

The following states adjourned their 2022 legislative sessions on the dates provided: **Kentucky** (April 14) and **Nebraska** (April 20).

The following states are scheduled to adjourn their 2022 legislative sessions on the dates provided: **Maine** (April 25), **Connecticut** (May 4), **Hawaii** (May 5) and **Vermont** (May 6).

**West Virginia** Republican Gov. Jim Justice announced a special session for April 24 after vetoing [SB 729](#), which was intended to create a self-sustaining loan fund with the West Virginia Economic Development Authority, due to "several technical errors" in the bill's language, reports [WVNews](#). The special session intends to fix these technical errors and will coincide with legislative interim meetings to prevent incurring additional costs.

**Signing Deadlines** (by date): **Alabama** Republican Gov. Kay Ivey had until April 19 to act on legislation or it was pocket vetoed. **Georgia** Republican Gov. Brian Kemp has until May 14 to act on legislation or it becomes law without signature. **Maryland** Republican Gov. Larry Hogan has until May 31 to act on legislation or it becomes law without signature. **Illinois** Democratic Gov. J.B. Pritzker has until June 7 to act on legislation or it becomes law without signature. **Arkansas** Republican Gov. Asa Hutchinson has 20 days from presentment, Sundays excluded, 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.

**Kentucky** Democratic Gov. Andy Beshear has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature.

**Mississippi** Republican Gov. Tate Reeves has 15 days from presentment to act on legislation or it becomes law without signature. **Nebraska** Republican Gov. Pete Ricketts has five days from presentment, Sundays excepted, to act on legislation or it becomes law without signature.

The following states are currently holding 2022 interim committee hearings: [Montana](#), [Nevada](#), [North Dakota](#) and [Wyoming](#). ■

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## Weekly Highlights At-A-Glance

### FEDERAL – Legislative

#### **H.R. 7550 – Oil and Gas Industry Antitrust Act.**

On April 21, Rep. Val Demings (D-FL) introduced [H.R. 7550](#), known as the *Oil and Gas Industry Antitrust Act*. The bill requires that the Federal Trade Commission (FTC) shall conduct an investigation to determine if the price of gasoline is being manipulated by reducing refinery capacity or by any other form of market manipulation or artificially increased by price gouging practices and requires an investigation and report. Under the bill, “the FTC must report to Congress within 270 days of enactment a report on the investigation, plus long-term strategy for the Commission and Congress to address manipulation of oil and gas markets during times of national or international crisis or emergency.” [Read more.](#)

#### **S. 977 – No Oil Producing and Exporting Cartels**

**Act.** On May 5, [S. 977](#) was reportedly favorably out of the Senate Judiciary Committee. This is the first action on this bipartisan bill known as the *No Oil Producing and Exporting Cartels Act of 2021* or *NOPEC Act* which has languished in the Senate since its introduction more than a year ago. The House Judiciary Committee approved the bill by a voice vote last April. Introduced by Sen. Chuck Grassley (R-IA), the “bill prohibits a foreign state from engaging in collective action impacting the market, supply, price, or distribution of oil, natural gas, or any other petroleum product in the U.S. Specifically, a foreign state is prohibited from collective action that limits the production or distribution of such product, collective action to set or maintain the price of such product, or any other action that restrains trade of such product. Specified defenses such as sovereign immunity (i.e., a foreign state’s immunity from the jurisdiction of U.S. courts) and the act of state doctrine (i.e., the prohibition of a court invalidating an official act of a

foreign sovereign performed within its own territory) shall not apply to a foreign state’s violation of this bill.” According to Sen. Grassley, the legislation aims “to crack down on anticompetitive behavior by foreign oil producing nations” and “will let the federal government take action against price fixing by OPEC, the Organization of Petroleum Exporting Countries, and its partner nations.” [Read more.](#)

#### **S. Res. 608 – Transition to Clean Energy Economy.**

On May 2, Sen. Jeff Merkley (D-OR) introduced [S. Res. 608](#), “Expressing the sense of Congress about the need to stop excessive price increases by oil and gas companies and the importance of rapidly transitioning to a clean energy economy.” According to Sen. Merkley, the “Resolution urges a rapid transition to renewable energy, which ‘can come online more quickly and reliably than oil and gas production, which will ensure the United States’ energy independence and help us maintain a safe and healthy climate.’” [Read more.](#)

### FEDERAL – Regulatory

#### **BLM National Petroleum Reserve in Alaska Leasing.**

On April 25, the Bureau of Land Management (BLM) [announced that it has signed a new Record of Decision \(ROD\)](#) to guide management of the National Petroleum Reserve in Alaska (NPR-A). [Read more.](#) According to *The Hill*, the ROD “is shrinking the amount of land eligible for drilling at an oil reserve in the Arctic.” The Biden administration will be returning to “an Obama administration plan that would enable the government to lease up to 52 percent of the National Petroleum Reserve in Alaska for oil and gas exploration. It reverses a Trump-era plan that would have opened up 82 percent of the reserve.” According to reporting, “In addition to shrinking the amount of [NPR-A] land available for

lease, returning to the 2013 plan also reinstates protections for certain areas of particular environmental significance.” [Read more.](#)

**BOEM Wind Lease Sales.** On April 29, the Bureau of Ocean Energy Management (BOEM) published a “Call for Information and Nominations-Commercial Leasing for Wind Energy Development on the Outer Continental Shelf (OCS) Offshore Oregon” ([87 Fed. Reg. 25529](#)), that “invites public comment on and assesses interest in possible commercial wind energy leasing on the OCS offshore the Oregon coast. BOEM will consider information received in response to this Call to determine whether to schedule a competitive lease sale or to issue a noncompetitive lease for any portion of the areas described in this Call (Call Areas).” The Call “requests information on two areas that together comprise approximately 1.158 million acres, which are depicted on the map below. Both areas—the Coos Bay Call Area and the Brookings Call Area—begin about 12 nautical miles from shore at their closest points, off the coast of central and southern Oregon, respectively.” The 60-day public comment period will be open through June 28, 2022. [Read more.](#)

**Solar Energy Projects.** On April 27, the Solar Energy Industries Association (SEIA) [cut its forecasts for solar energy deployment by nearly 50 percent](#). The SEIA has called out “the Biden administration’s decision to investigate Asian manufacturers amid allegations of dodging tariffs.” Abigail Ross Hopper, SEIA CEO and President said, “If tariffs are imposed, in the blink of an eye we’re going to lose 100,000 American solar workers and any hope of reaching the President’s clean energy goals.” To that end, the SEIA is “dropping its installation projections 46 percent as a result of the probe. This would equate to the loss of 24 gigawatts worth of planned capacity, more than the industry has installed all last year.” [Read more.](#)

**AAPL Joins 35 Trade and Membership Groups Urging Extended Comment Period for SEC Climate Disclosure Rulemaking.** (*Update to 4/25/22 Report*)  
On April 26, AAPL joined 35 other trade groups and industry associations in a letter spearheaded by the

Western Energy Alliance calling on the Securities and Exchange Commission to extend the comment period for their climate disclosure proposed rulemaking. [Read the letter here.](#) For background, on April 11, the SEC published proposed rulemaking that would mandate corporate reporting of climate risks and greenhouse gas (GHG) emissions. [See SEC Press Release here.](#) The proposal already attracted industry attention when first released as a draft at the end of March. *Bloomberg News* called this “a major shift in how corporations must show they are dealing with climate change.” Further, “For the first time ever, the agency plans to require businesses to outline the risks a warming planet poses to their operations when they file registration statements, annual reports or other documents. Some large companies will have to provide information on emissions they don’t make themselves but come from other firms in their supply chain.” As reported by the *Oil & Gas Journal*, [the proposed rule](#), entitled “The Enhancement and Standardization of Climate-Related Disclosures for Investors” ([87 Fed. Reg. 21334](#)), “would require disclosures of information about climate-related risks that are reasonably likely to have a material impact on their business, results of operations, or financial condition. The SEC suggested its plan would require commonly used metrics that would make it easier for investors to assess the relative risk profiles of different companies. The risks cited by the SEC proposal include not only what the public might imagine — changes in weather, for example — but regulatory, technological, and market risks driven by a transition to a lower-GHG intensive economy. The proposed rule would require a company to disclose information about the company’s governance or high-level oversight and management policies for climate-related risks. Such disclosures would be part of the environmental, social, and governance reporting that many people have begun demanding from businesses.” [Read more.](#) As noted by the SEC, “companies will be required to calculate these potential costs from data they already compile for regular disclosures to investors.” [Read more.](#) You may also access a detailed [AAPL Governmental Affairs Fact Sheet here.](#)



## STATE – Legislative

**Produced Water – California.** On April 19, AB 2447 passed the Assembly Natural Resources Committee along partisan lines. Sponsored by Asm. Bill Quirk (D), the bill would prohibit “the disposal of produced wastewater into unlined ponds and the construction of new unlined ponds.” According to the California Independent Petroleum Association (CIPA), “Shutting down produced water ponds would reduce oil production in Kern County by approximately 3 million barrels per year. Not only would oil workers and contractors lose work, but oil companies would likely have to shut down. This would lead to lost income taxes to the State of California and potentially millions in lost tax revenue for Kern County – dollars which currently support vital public services. All affected ponds are located in Kern County.” CIPA noted that “AB 2447 also ignores years of work with state regulators on the Basin Plan and Basin Plan Amendment process. It is frustrating when bills are introduced that disregard years of cooperation between state regulators and industry to ensure that best practices are applied based on experience and scientific review.” [Read more.](#)

**Oil Imports – California.** On April 28, SB 1319 advanced out of the Senate Environmental Quality Committee following its initial advancement out of the Natural Resources Committee. Sponsored by Sen. Shannon Grove (R), the bill would, according to a CIPA analysis, “first express the intent of the Legislature to prohibit the import of crude oil into California if the source of the oil is a foreign nation with demonstrated human rights abuses, or a foreign nation with environmental standards that are lower than those in California. Second, the bill would require the Geologic Energy Management Division (CalGEM) to report on its website the amount of particulate matter released into the air from tanker ship emissions from oil imported into the state.” According to CIPA, “Too often, oil producers in the LA basin are accused of health impacts on residents without any scientific evidence connecting the health impacts to oil production facilities. Oil producers in California are blamed for health issues related to air quality when the

true culprits are vessels clogging our ports and vehicle traffic inching along urban freeways and roadways.”

[Read more.](#)

**Worker Misclassification – Colorado.** On May 2, SB22-161 advanced through committee. The bill, sponsored by Sen. Sonya Jaquez Lewis (D), “updates and modifies laws pertaining to the payment of wages, employee misclassification, and workplace safety, and the enforcement procedures and remedies for violations of those laws” and specifically establishes the worker and employee unit in the Department of Law to investigate and enforce wage theft, unemployment insurance and misclassification of employees. [Read more.](#)

**Unitization Timing Requirements – Ohio.** On April 20, Gov. Mike DeWine signed [HB 397](#) into law. The bill, sponsored by Rep. Brian Stewart (R), establishes timelines within which the Chief of the Division of Oil and Gas Resources Management must hold a hearing on an application for unit operation and issue the unit operation order. The bill takes effect on July 21, 2022. [Read more.](#)

**Recording Fees – Mississippi.** (*Update to 2/14/22 Report*) On April 21, Gov. Tate Reeves (R) signed HB 719 into law. The bill, sponsored by Rep. Manly Barton (R), amends certain filing fees charged by Chancery clerks for the recording of documents. [Read more.](#)

**Water Quality Standards – Oklahoma.** On May 3, Gov. Kevin Stitt (R) signed SB 1325 into law. Sponsored by Sen. Julie Daniels (R), the bill transfers the enforcement of Oklahoma's Water Quality Standards from the Oklahoma Water Resources Board to the Department of Environmental Quality. The Act is effective November 1, 2022. [Read more.](#)

**Produced Water – Oklahoma.** (*Update to 1/31/22 Report*) On April 21, Gov. Kevin Stitt (R) signed HB 3403 into law. The bill, sponsored by Rep. Brad Boles (R), relates to oil and gas produced water and waste recycling and reuse and modifies “definitions to allow thermal and other commercially viable technological processes.” Specifically, the bill “modifies the definition

of 'recycled water' to include oil and gas produced water and waste that has been treated by thermal, or any other commercially viable technological processes, into a reusable form. The measure also modifies the definition of 'treated constituents' to mean any byproduct removed from oil and gas produced water through a thermal treatment, or any other commercially viable technological process." The Act is effective November 1, 2022. [Read more.](#)

**Effluent Water Standards – Oklahoma.** On April 29, Gov. Kevin Stitt (R) signed HB 3824 into law. The bill, sponsored by Rep. Carl Newton (R), authorizes the Department of Environmental Quality to apply site-specific criteria to effluent water quality standards, so long as they are implemented by the permitting or rulemaking process that meets requirements for public comments. The Act is effective November 1, 2022. [Read more.](#)

**Well Plugging – Pennsylvania.** On April 20, HB 2528 was introduced by Rep. James Struzzi (R). The bill would require that regarding the plugging of oil and gas wells, the state ensure that well plugging contracts awarded are going to Pennsylvania companies as a first priority. [Read more.](#)

## **STATE – Regulatory**

**Plugging and Abandoned Wells; Site Remediation Rulemaking – California.** On April 20, the Geologic Energy Management Division (CalGEM) released a regulatory discussion draft regarding criteria for the submission of operator cost estimates for the plugging and abandonment of wells, decommissioning of attendant facilities, and site remediation associated with California oil and gas operations. [Read more.](#) According to CIPA, "In addition to cost estimates the draft discussions also present proposed due dates for cost estimate reports and requirements for cost estimates. Methodology for cost estimates also prescribe contingency costs must be used based on aggregated risk score tables. The risk tables will significantly increase the required contingency costs that must be submitted." The CalGEM public comment period is currently open and will close on May 20,

2022. To submit hard copies of public comments, send to: Department of Conservation, 715 P Street, MS 1907, Sacramento, CA 95814, Attn: CalGEM Cost Estimates. Comments may also be submitted via email to: [calgemcostestimates@conservation.ca.gov](mailto:calgemcostestimates@conservation.ca.gov). [Read more.](#)

**Regional Greenhouse Gas Initiative Adoption – Pennsylvania.** (*Update to 11/30/20 Report*) On April 22, Gov. Tom Wolf (D) announced Pennsylvania has entered the Regional Greenhouse Gas Initiative (RGGI) – a cap-and-trade emissions program for power plants encompassing 12 Northeastern states – that finalizes rulemaking in process since 2019. [Read more.](#) Republican lawmakers fought the adoption of RGGI arguing it will imperil safe and reliable energy sources used to power Pennsylvania. "Joining RGGI is a bad idea because it will increase electricity prices, even though higher energy prices are already contributing to inflation," said Michelle Bloodworth, the president of America's Power, a trade group representing coal interests. "It will cause the premature retirement of coal-fired power plants at the same time electricity grid operators are concerned that more coal retirements could cause electric reliability problems; and it will have no effect on climate change because other countries, especially China, continue to build more coal-fired power plants and increase their use of coal." [Read more.](#) For background, in 2020, the Pennsylvania Environmental Quality Board issued its proposed rulemaking entitled "CO<sub>2</sub> Budget Trading Program," which would establish Pennsylvania as the newest member of the RGGI. The "RGGI is an intergovernmental organization consisting of ten member-states (CT, DE, ME, MD, MA, NH, NJ, NY, RI, VT) that has established a market-based cap-and-trade program for CO<sub>2</sub> emissions." According to that proposed regulation, "The purpose of this proposed rulemaking is to reduce anthropogenic emissions of CO<sub>2</sub>, a greenhouse gas (GHG) and major contributor to climate change impacts, in a manner that is protective of public health, welfare and the environment in this Commonwealth. This proposed rulemaking would reduce CO<sub>2</sub> emissions from sources within this Commonwealth and establish the Commonwealth's participation in the Regional

Greenhouse Gas Initiative (RGGI), a regional CO<sub>2</sub> Budget Trading Program. This proposed rulemaking would establish a CO<sub>2</sub> Budget Trading Program for this Commonwealth which is capable of linking with similar regulations in states participating in RGGI (participating states). These independently promulgated and implemented CO<sub>2</sub> Budget Trading Program regulations together make up the regional CO<sub>2</sub> Budget Trading Program or RGGI." The initiative includes an approach to reducing CO<sub>2</sub> emissions from fossil fuel-fired electric generating units in the state. According to law firm, Manko, Gold, Katcher & Fox, LLP, "Based on an analysis conducted by a consultant retained by [Pennsylvania Department of Environmental Protection] PADEP, most emission reductions are expected to come from reductions in coal use, while a smaller percentage would come from natural gas." [Read more.](#)

**Railroad Commission Rulemaking – Texas.** On May 4, the Texas Railroad Commission (RRC) formally announced that it has proposed amendments to [16 TAC Chapter 5](#) to implement [HB 1284 \(2021 Legislative Session\)](#) regarding carbon sequestration wells at its open meeting on May 3. According to the RRC, "The proposed amendments would modify various sections of RRC rules, including those describing the applicability of the rules, application requirements, notice and hearing requirements, permit standards and reporting, recordkeeping, and more." Leslie Savage, RRC's chief geologist said, "Clearly, there is concern today about levels of carbon dioxide in the atmosphere and its impact on the environment. Class VI injection wells have the potential to be part of the solution by trapping the CO<sub>2</sub> in appropriate geologic formations. We hope our program will be able to streamline the process and allow for the timely issuing of Class VI permits." Public comments on the proposal will be accepted until 5:00 pm, June 20, 2022. The [proposal is available here](#). For further questions regarding the proposed rulemaking, you may contact Kellie Martinec, Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, at [kellie.martinec@rrc.texas.gov](mailto:kellie.martinec@rrc.texas.gov) or [rulescoordinator@rrc.texas.gov](mailto:rulescoordinator@rrc.texas.gov). [Read more.](#)

## STATE – Judicial

**Mineral Interests; Deeds – Arkansas.** In *Phifer v. Oullette* (Case No. CV-20-733), the Court of Appeals of Arkansas (Division II) addressed a dispute over percentage ownership in minerals interests in a 190-acre tract of land in White County, Arkansas. The lower court quieted title in the minerals with a 25 percent interest to the appellant and 75 percent interest to the appellees. The appellant brought this action "contending that the circuit court erred in its calculation. He argues that the mineral interests are owned 50/50." Specifically on appeal, "Phifer argues that the court's 75/25 division of mineral rights was error, and the flaw in its reasoning occurred when it misinterpreted one of the deeds in the chain of title." Here, the court examined the chain of title and found that "Phifer owns an undivided half of an undivided half of the mineral rights. And although we took a different route, we arrived at the same conclusion as the circuit court: 75 percent of the mineral interests to the appellees and 25 percent to Phifer. We can affirm a circuit court when we reach the same result, even if we state a different reason." [Read more.](#)

**Mineral Liens – Texas.** In *Pearl Resources Operating Co. LLC v. Transcon Capital, LLC* (Case No. 08-19-00288-CV), the Texas Court of Appeals (Eighth District) addressed a dispute in which "the company that purchased the rights to the water-hauling service's invoices sued the mineral lease holders to make good on the unpaid invoices. Its leverage was a potential statutory lien on the mineral lease—which was the sole relief granted to it in the judgment below. But because the mineral lien statute only permits the lien to attach to the extent that the mineral lease holder has not paid its contractor, and here the contractor was paid in full under its contract, the statutory lien is unavailable." As the appellate court explained, "when the owner has already paid its contractor all that is owed under a contract by the time the subcontractor serves the owner with notice of its claim the subcontractor is not entitled to a lien under [Texas law]." As a result, the appellate court reversed judgment in favor of the mineral lease holder. [Read more.](#)

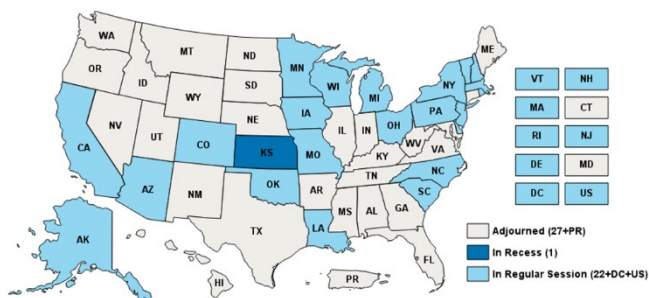
## INDUSTRY NEWS FLASH

► **Europe joins U.S. in plan to ban Russian oil imports.** Last week, European Commission President Ursula von der Leyen formally proposed a ban on all imports of Russian oil by the end of 2022 over Moscow's invasion of Ukraine. "When [European] leaders met in Versailles, they agreed to phase out our dependency on Russian fossil fuels," von der Leyen said. "Let's be clear: It will not be easy, because some member-states are strongly dependent on Russian oil. But we simply have to do it, so today we will propose to ban all Russian oil from Europe." The president added that the ban would apply to all imports, "sea-borne and pipeline, crude and refined." [Read more.](#)

► **OPEC+ approves small increase in production.** On May 5, OPEC+ nations approved a small monthly increase in oil production. According to *Rigzone*, "International consumers have called on Saudi Arabia and its partners to fill the gap left by a boycott of Russian crude and help ease the inflationary pain caused by prices near \$110 a barrel. But in yet another brief meeting, the Organization of Petroleum Exporting Countries and its allies rubber-stamped the standard 432,000 barrel-a-day increase for June, according to a statement from the group." [Read more.](#)

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes:** Alaska, Arizona, California, Colorado, Delaware, Iowa, Louisiana, Massachusetts, Michigan, Minnesota, Missouri,

New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Vermont, and Wisconsin are in regular session. The U.S. Congress is also in session.

**Kansas** is in recess until May 23, reports [KSHB](#). The Kansas Supreme Court is reviewing the Republican's new congressional and legislative districts and a ruling is expected by May 23. Usually, the legislature would reconvene for a single day set aside for an annual adjournment ceremony, but how long they reconvene this year hinges on the court's ruling and whether the Republican-controlled legislature will need to once again tackle redistricting.

The following states adjourned their 2022 legislative sessions on the dates provided: **Tennessee** (April 28) and **Connecticut** (May 4).

The following states are scheduled to adjourn their 2022 legislative sessions on the dates provided: **Vermont** (May 6), **Alaska** (May 11), and **Missouri** (May 13).

**Signing Deadlines** (by date): **Georgia** Republican Gov. Brian Kemp has until May 14 to act on legislation or it becomes law without signature. **Maryland** Republican Gov. Larry Hogan has until May 31 to act on legislation or it becomes law without signature. **Hawaii** Democratic Gov. David Ige has until July 12 to act on legislation or it becomes law without signature. **Arkansas** Republican Gov. Asa Hutchinson has 20 days from presentment, Sundays excluded, to act on legislation or it becomes law without signature. **Connecticut** Democratic Gov. Ned Lamont has 15 days from presentment 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. **Illinois** Democratic Gov. J.B. Pritzker has 60 days from presentment to act on legislation or it becomes law without signature. **Kentucky** Democratic Gov. Andy Beshear has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **Maine** Democratic Gov. Janet Mills must act

on legislation presented within 10 days of adjournment or it becomes law unless returned within three days after the next meeting of the same legislature.

**Mississippi** Republican Gov. Tate Reeves has 15 days from presentment to act on legislation or it becomes law without signature. **Nebraska** Republican Gov. Pete Ricketts has five days from presentment, Sundays excepted, 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 2022 interim committee hearings: [Arkansas](#), [Montana](#), [Nevada](#), [New Mexico](#), [North Dakota](#), [South Dakota](#), [Utah](#), [Virginia](#), [Washington](#), [West Virginia](#), and [Wyoming](#). ■

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# GOVERNMENTAL AFFAIRS REPORT

## Highlights At-A-Glance

### FEDERAL – Legislative

**S. 4227 – Permitting; Fee Ownership.** On May 16, Sen. John Hoeven (R-ND) introduced S. 4227. The purpose of the bill is to “streamline the oil and gas permitting process and to recognize fee ownership for certain oil and gas drilling or spacing units.” Specifically, the bill provides that a Bureau of Land Management drilling permit would not be necessary under certain circumstances in a drilling unit. The bill also provides for notifications and that royalties to the federal government remained unchanged. [Read more.](#)

**S. 4228 – Lease Now Act of 2022.** On May 24, official bill text was made available for [S. 4228](#), known as the “Lease Now Act of 2022.” Sponsored by Sen. John Barrasso (R-WY), the bill would “require the Secretary of the Interior to immediately resume oil and gas lease sales.” The bill also directs the Interior Department “to finalize a five-year offshore oil and gas leasing plan.” [Read more.](#)

**S. 4229 – ONSHORE Act.** On May 24, official bill text was made available for [S. 4229](#), known as the “Opportunities for the Nation and States to Harness Onshore Resources for Energy Act” or “ONSHORE Act.” Sponsored by Sen. John Barrasso (R-WY), the bill empowers states “to manage the development and production of oil and gas on available Federal land.” [Read more.](#)

**H. Res. 1101 – Supporting Domestic Energy.** On May 10, Rep. Fred Keller (R-PA) introduced [H. Res. 1101](#), “Expressing the sense of the House of Representatives that the United States should support the safe and responsible development of its energy resources via drilling, in an effort to maintain a robust energy supply chain that promotes national security, safeguards against energy scarcity, and reduces

energy poverty for all Americans.” Rep. Keller’s resolution, “which 20 other GOP lawmakers backed, said the U.S. must repeal federal precedent limiting exploration, drilling and production of fossil fuels on federal lands and waters.” [Read more.](#)

### FEDERAL – Regulatory

**Offshore Lease Sales – Cook Inlet; Gulf of Mexico.** On May 12, the U.S. Department of the Interior announced it was cancelling planned oil and gas lease sales in the Gulf of Mexico and Alaska’s Cook Inlet. “A spokesperson for the department confirmed the Cook Inlet lease sale would not proceed due to insufficient industry interest. Meanwhile, the planned sale of two leases, lease 259 and lease 261, in the Gulf of Mexico will not proceed due to contradictory court rulings on the leases.” [Read more.](#)

**BLM Resource Advisory Councils – California.** On May 16, the Bureau of Land Management published a *Call for Nominations for the California Desert District Advisory Council and the Northern California District and Central California Resource Advisory Councils* ([87 Fed. Reg. 29760](#)) “to request public nominations for positions that are or will soon become vacant on the Bureau of Land Management’s (BLM) California Desert District Advisory Council, Central California Resource Advisory Council (RAC), and the Northern California District RAC. The councils provide advice and recommendations to the BLM on public land use planning and management within their geographic areas.” According to the BLM, “RAC membership must be balanced and representative of the various interests concerned with the management of the public lands” and “includes those [who] represent energy and mineral development.” Nominations are open through June 15, 2022. [Read more.](#)

**Migratory Birds Interior Department Information Collection.** On May 17, the Interior Department published a notice of information collection renewal, *Agency Information Collection Activities; Federal Fish and Wildlife Permit Applications and Reports-Migratory Birds* ([87 Fed. Reg. 29872](#)), that seeks to renew certain information collection regarding migratory birds. According to the announcement, the “U.S. Fish and Wildlife Service’s regional migratory bird permit offices use information that we collect on permit applications to determine the eligibility of applicants for permits requested in accordance with the criteria in various Federal wildlife conservation laws and international treaties” which includes the Migratory Bird Treaty Act. Public comments are open through July 18, 2022. [Read more.](#)

**Interior Department Office of Natural Resources Revenue Information Collection.** On May 26, the Interior Department’s Office of Natural Resources Revenue (ONRR) published a notice of information collection and request for comment, *Agency Information Collection Activities: Federal Oil and Gas Valuation* ([87 Fed. Reg. 32050](#)). According to the announcement, “ONRR is proposing to renew an information collection. Through this Information Collection Request (ICR), 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.” The ONRR uses the ICR to assess “(1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of ONRR’s estimate of the burden for this collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or

other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.” The public comment period is open through July 25, 2022. [Read more.](#)

**SEC Extends Comment Deadline for Climate Disclosure Rulemaking After Pressed by AAPL and Other Trade Groups. (Update to 5/9/22 Report)**

In a victory for our members and the energy industry generally, on May 9, the Securities and Exchange Commission (SEC) agreed to extend the comment deadline for their sweeping climate disclosure rulemaking. According to *The Hill*, “SEC Chair Gary Gensler said in a statement that it would extend the proposal’s comment period due to ‘significant interest’ from investors and others.” The SEC is now giving the public until June 17 to submit comments which originally were set to close on May 20. [Read more.](#) For background, on April 26, AAPL joined 35 other trade groups and industry associations in a letter spearheaded by the Western Energy Alliance calling on the SEC to extend the comment period for their climate disclosure proposed rulemaking. [Read the letter here.](#) Originally, on April 11, the SEC published proposed rulemaking that would mandate corporate reporting of climate risks and greenhouse gas (GHG) emissions. [See SEC Press Release here.](#) The proposal already attracted industry attention when first released as a draft at the end of March. *Bloomberg News* called this “a major shift in how corporations must show they are dealing with climate change.” Further, “For the first time ever, the agency plans to require businesses to outline the risks a warming planet poses to their operations when they file registration statements, annual reports or other documents. Some large companies will have to provide information on emissions they don’t make themselves but come from other firms in their supply chain.” As reported by the *Oil & Gas Journal*, [the proposed rule](#), entitled “The Enhancement and Standardization of Climate-Related Disclosures for Investors” ([87 Fed. Reg. 21334](#)), “would require disclosures of information about climate-related risks that are reasonably likely to have a material impact on their business, results of operations, or financial condition. The SEC suggested its plan would require commonly used metrics that would

make it easier for investors to assess the relative risk profiles of different companies. The risks cited by the SEC proposal include not only what the public might imagine — changes in weather, for example — but regulatory, technological, and market risks driven by a transition to a lower-GHG intensive economy. The proposed rule would require a company to disclose information about the company's governance or high-level oversight and management policies for climate-related risks. Such disclosures would be part of the environmental, social, and governance reporting that many people have begun demanding from businesses.” [Read more](#). As noted by the SEC, “companies will be required to calculate these potential costs from data they already compile for regular disclosures to investors.” [Read more](#). You may also access a detailed [AAPL Governmental Affairs Fact Sheet here](#).

## **FEDERAL – Judicial**

**Greater Sage-Grouse – California.** On May 16, the U.S. District Court for the Northern District of California addressed a lawsuit challenging the federal government's withdrawal of its proposal to list the bi-state sage grouse as “threatened” under the Endangered Species Act. In *Desert Survivors v. U.S. Department of the Interior* (Case No. 20-cv-06787-JSC), conservation groups sued the Trump administration after it withdrew a proposal to list the species, which is a type of Greater Sage-Grouse living along the California-Nevada border. The U.S. Fish and Wildlife Service (FWS) told the court that the sage-grouse “was simply going through a pattern of population cycling.” But the court held that “the agency improperly found that the species wasn’t likely to become endangered and that the effective population size was above the viability threshold.” The court also found that the agency’s 2020 withdrawal “didn’t address its earlier findings that declining numbers in smaller sub-populations was concerning” and it “also didn’t address previous findings that local extinctions of the subpopulations may affect the sage grouse’s entire population and range.” The court also held that the “agency’s finding that the sage grouse population was cyclical wasn’t

based on the best scientific and commercial data available.” As such, the court ordered that the FWS must issue a new listing decision as to whether the bi-state sage grouse should be designated as threatened under the Endangered Species Act. [Read more](#).

**Drilling Plan – Colorado.** On May 19, the U.S. District Court for the District of Colorado “blocked a plan approved by federal agencies for 35 fracked gas wells across 30,000 acres of U.S. Forest Service land between Gunnison and the Grand Mesa, handing a victory to environmental groups suing the government for failing to take climate change into account in approving new drilling.” In [Citizens for a Healthy Community v. U.S. Dept. of Interior](#) (Case No. 21-cv-01268-MSK), the court considered a master development plan for oil and gas development activities in the North Fork Valley of Colorado’s Western Slope by defendant Gunnison Energy. The plaintiff environmental groups asserted that the U.S. Department of the Interior, Bureau of Land Management, and U.S. Forest Service violated the Administrative Procedure Act and the National Environmental Policy Act “because the Agencies failed to adequately consider the effects that approval of the Plan would have on greenhouse gas emissions and climate change and because the Agencies failed to consider a range of reasonable alternatives to the Plan.” The court ordered that the drilling plan be vacated in part “on the federal agencies’ own admission during lawsuit proceedings that they had failed some required steps in the National Environmental Policy Act process for considering well permits.” As the court wrote, those admitted missteps, included “the analysis of the potential impact of the new wells on emissions of greenhouse gases such as methane.” As a result of the court order the master plan will now be subject to review by the agencies. [Read more](#).

**Post-Production Costs – Louisiana.** On March 31, the U.S. District Court for the Western District of Louisiana reversed the 2019 decision in [Johnson v. Chesapeake Louisiana, LP](#) (Case No. 16-1543, 2019). In the original *Johnson* decision, “the district court

sent shockwaves across the oil and gas industry in Louisiana by finding that post-production costs were not properly deductible against proceeds owed to unleased mineral owners. In the wake of that decision, at least two putative class actions were filed against the largest producers in the Haynesville Shale, and operators have been flooded with demands and suits from unleased owners who relied on *Johnson* to contest the validity of post-production cost decisions from unleased interests.” [Read more](#). The latest decision, in [Johnson v. Chesapeake Louisiana, LP](#) (Case No.16-1543, 2022), reverses that prior ruling and on March 31 the court also applied the same rationale to a pending motion for partial dismissal in a putative class action in [Self v. BPX Operating Co.](#) (Case No. 19-0927, 2022) regarding similar post-production deductions claims. As noted by law firm Liskow & Lewis, “The primary impetus for the court’s reconsideration and reversal was the Louisiana Civil Code doctrine of *negotiorum gestio* (i.e., management of the affairs of another) which provides managers with reimbursement rights for all necessary and useful expenses.” This is in keeping with the arguments made by Chesapeake and many amicus groups, such as the Louisiana Oil & Gas Association and the Louisiana Mid-Continent Oil and Gas Association, who “explained that the unit operator is managing the unleased mineral owner’s affairs by selling his share of gas for him. Because post-production costs are expended to make that production marketable, the managing operator is entitled to be reimbursed for the unleased mineral owner’s share of post-production costs.” [Read more](#).

**Notice Requirements – Louisiana.** On February 11, in [B.A. Kelly Land Company, L.L.C. v. Aethon Energy Operating, L.L.C.](#) (Case No. 20-30090), the U.S. Court of Appeals, Fifth Circuit, addressed a dispute over whether an operator complied with the strict notice requirements contained in the relevant state statutes. B.A. Kelly originally brought this action “principally for a judgment declaring that Aethon, as operator of the Units, had failed to comply with its disclosure and reporting obligations to Kelly, as an unleased owner, under Louisiana’s conservation laws, and that, consequently, Aethon had forfeited its right to demand

contribution from Kelly for a proportionate share of the costs of well drilling operations.” Here, the court found that the lower court, “erroneously engrafted conditions into §§ 103.1 and 103.2 that are not present in the text of the statutes themselves.” In applying the text of the statutes, the court concluded that (1) the district court erred in granting partial summary judgment to Aethon and in dismissing both of Kelly’s forfeiture claims with prejudice; (2) Kelly is entitled to summary judgment on its motion for partial summary judgment on its direct forfeiture claim against Aethon; and (3) the district court’s dismissal of Kelly’s successor forfeiture claim must be vacated and remanded for further proceedings because the record does not contain grounds warranting summary judgment on that claim.” Additionally, the court concluded “that (4) we have pendent appellate jurisdiction to review the denial of Kelly’s request for leave to amend to implead Aethon LP; but (5) we conclude that the district court did not abuse its discretion in denying Kelly leave to amend.” Of the case, law firm Liskow & Lewis notes that this “provides an important reminder for operators to remain vigilant when receiving correspondence from owners that could be interpreted to be a demand under either La. R.S. 30:103.1 or 103.2. Although a potential demand may not reference the statutes expressly, a court could find the correspondence contains sufficient information to reasonably alert the operator of its intent and expose the operator to the harsh penalty found in La. R.S. 30:103.2.” [Read more](#).

## STATE – Legislative

**Production Taxes and Credits – Alaska.** On May 10, SB 107 was referred to the Senate Finance Committee following its introduction by Senator Bill Wielechowski (D). [Read Sponsoring Statement here](#). The bill would make certain statutory amendments relating to the oil and gas production tax; relating to credits against the oil and gas production tax; relating to payments of the oil and gas production tax; relating to lease expenditures and adjustments to lease expenditures; and making public certain information related to the oil and gas production tax. [Read more](#).

**Carbon Sequestration – California.** On May 25, SB



1101 passed the Senate. Sponsored by Sen. Anna Caballero (D), this bill “would require the state Air Resources Board, in consultation with the Geologic Carbon Sequestration Group, which the bill would establish in the California Geological Survey, to establish a Carbon Capture, Utilization, and Storage (CCUS) Program, as provided, for developing the commercial application of carbon capture, utilization, and storage technologies to reduce carbon dioxide emissions from new and existing facilities with a primary objective of deploying projects that will accelerate, to the maximum extent practicable, the development, deployment, and commercialization of advanced new technologies to capture and sequester carbon dioxide emissions from industrial and commercial facilities. The bill would require the state board, by an unspecified date, to submit a report to the Legislature and to the budget and relevant policy committees of the Legislature regarding CCUS projects approved under the program on or before an unspecified date.” [Read more.](#)

**State Leases – California.** *(Update to 2/28/22 Report)*

In a victory for the oil and gas industry, on May 19, [SB 953](#) was blocked by the Senate Committee on Appropriations, killing the bill. Sponsored by Sen. David Min (D), the bill would have ended offshore oil production in California waters by 2024. A committee analysis noted that “to the extent this bill results in unilateral lease terminations that violate the terms of the leases, it could result in litigation and the state could incur unknown but potentially significant related costs (General Fund).” Even Gov. Gavin Newsom (D) had cautioned about “the thorny legal and logistical questions tied to a prohibition” of the drilling activity. “I think most legislators understand that every barrel of oil we don’t produce here under our strict environmental rules must be imported by foreign tankers floating offshore in our crowded ports from Iraq, Saudi Arabia, or the Ecuadorian rainforest,” said California Independent Petroleum Association CEO Rock Zierman. [Read more.](#)

**Offshore Leasing – Louisiana.** *(Update to 4/11/22 Report)* On May 11, SCR 12 was enacted. Sponsored by Sen. Sharon Hewitt (R), this resolution “Requests

the U.S. President and the U.S. Congress to take any action necessary to halt federal actions resulting in the delay or cancellation of offshore oil and natural gas lease sales. Requests the U.S. Department of Interior to expedite actions necessary to comply with a court order to resolve lease sales, finalize a new five-year plan for oil and gas leasing on the Outer Continental Shelf, and focus efforts on lease sales in the Gulf of Mexico.” [Read more.](#)

**Orphan Well Plugging – Louisiana.** On May 11, [SB 23](#) advanced to final passage in the House following its passage in the Senate. Related bill, [SB 245](#), was signed into law by Gov. John Bel Edwards (D) on May 13 and is effective the same date. Sponsored by Sen. Bret Allain (R), the bills provide for the deposit of monies into the Oilfield Site Restoration Fund and the Orphan Well Program, respectively. According to Louisiana law firm Liskow & Lewis, “Congress has dedicated \$4.7 billion to orphan well plugging, remediation, and restoration activities nationwide through the Infrastructure Investment and Jobs Act (IIJA). A substantial portion of this money will be apportioned to the various states based on each state’s capacity and ability to effectively utilize the funds to plug orphan wells. Louisiana Senate Bills 23 and 245, filed by Senator Bret Allain, are designed to maximize Louisiana’s share of IIJA funds by streamlining the procedures for depositing monies into the Oilfield Site Restoration Fund and then utilizing those funds quickly and efficiently. According to Allain, these bills could position Louisiana to receive up to \$200 million for the closure of orphan wells.” [Read more.](#)

**Risk Charge – Louisiana.** *(Update to 3/28/22 Report)* SB 38 was signed into law by Gov. John Bel Edwards (D) on May 13. Sponsored by Sen. Bob Hensgens (R), the Act provides for the risk charge against nonparticipating owners in drilling units and notice requirements. Read a complete [digest of provisions here](#). The Act is effective August 1, 2022. [Read more.](#)

**Gross Production Tax – Oklahoma.** *(Update to 1/31/22 Report)* On May 26, Gov. Kevin Stitt (R) signed HB 3568 into law. Sponsored by Rep. Mark



McBride (R), the Act creates a rebate program for oil and gas companies that implement qualified emission reduction projects. The rebate is for 25 percent of documented expenditures made to implement the qualified projects. Rebate payments may not exceed \$10 million total in any fiscal year. If the cap is exceeded, the rebates will be pro-rated. The rebate program is set to expire July 1, 2027. The measure also creates a five-year gross production tax exemption for oil and gas production projects approved by the Corporation Commission that use secondary and tertiary recovery methods. The Act is effective July 1, 2022. [Read more.](#)

**Well Orders – Oklahoma.** (*Update to 1/31/22 Report*)

On May 20, Gov. Kevin Stitt (R) signed HB 3039 into law. Sponsored by Rep. Brad Boles (R), the Act relates to common source of supply and well spacing and drilling units and would allow drilling of wells prior to the Oklahoma Corporation Commission granting an order. The Act is effective 90 days after session adjournment on May 27, 2022. [Read more.](#)

**STATE – Regulatory**

**Draft Climate Action Plan – California.** On May 10, the California Air Resources Board (CARB) released a “draft climate action plan to slash use of fossil fuels and reach carbon neutrality by 2045.” [Read more.](#) According to CARB, “when final, [the Draft 2022 Climate Change Scoping Plan] will guide the state’s transition to a clean energy economy, drastically reduce the use of fossil fuels, achieve carbon neutrality by 2045 or sooner, and significantly clean the state’s air especially in disadvantaged communities disproportionately burdened by persistent pollution.” Release of the draft plan triggers a formal 45-day public comment period. Rob Lapsley, President of the California Business Roundtable, issued the following statement in response to the Air Resources Board’s Draft Scoping Plan Update: “We have and continue to support the state’s climate change goals. However, as we continue to implement our current policies, we are beginning to see the reality as the state transitions from goals to mandates. Working families are paying highest-in-the-nation

gasoline prices, 50 percent more for residential electricity than they did just 10 years ago, and the highest inflation rate since June 1982. Businesses need certainty to grow and invest in jobs here. But our current policies have us facing an unpredictable and unreliable electric grid. Now the Air Resources Board (ARB) wants to make it worse by driving up energy and transportation costs even higher, which will be disproportionately paid by those who can least afford it. As this process moves forward, we encourage the ARB and Legislature to carefully consider the impact new policies have on working families, certainty, stability, and economic growth.” [Read more.](#) CARB will hold a public meeting on June 23, 2022 that may be attended in person in Sacramento and also virtually online. [Read more.](#) CARB is also accepting public comments on its Draft 2022 Climate Change Scoping Plan through June 24, 2022. [Read more to access the online public comment webpage.](#) To review a comprehensive analysis of the draft plan, [Read more.](#)

**Orphan Well Mitigation Fee Rulemaking –**

**Colorado.** On May 18, the Colorado Oil and Gas Conservation Commission (COGCC) published proposed rulemaking regarding Orphan Well Mitigation Fees (Series 200). Specifically, in Rule 205.c, the COGCC is creating a new pooled fund to address orphaned wells. The COGCC is seeking to “adopt a new annual registration fee, which is intended to raise \$10,000,000 in each of the first two years the fee is collected. The fees will be deposited into the pooled fund, and may be used by the Director solely to address orphaned sites.” The target date for final adoption is July 30, 2022. [Read more.](#) The COGCC will hold a virtual stakeholder meeting on Tuesday, June 14, 2022, 2 p.m.–3 p.m. Participants can join the stakeholder meeting virtually through Zoom. To become a party to the rulemaking, you must [register here](#) no later than Thursday, June 16, 2022, 5:00 p.m. To access the stakeholder meeting: Computer: <https://us02web.zoom.us/j/81412979750> Meeting ID: 814 1297 9750 / Phone: (253) 215-8782. [Read more.](#)

**RRC Acreage Designation Form – Texas.** On May 24, the Texas Railroad Commission (RRC) announced

it is accepting public comment on proposed revisions to the Form P-16, *Acreage Designation*, and its instructions. The proposed revisions include three changes to the Form P-16 and applicable changes to the instructions: 1. Addition of ownership intervals in Section II; 2. Removal of acreage assignments from Section V; and 3. Addition of ownership interval information in Section V. According to the RRC, “The proposed revisions to the Form P-16 instructions provide clarity related to the inclusion of depth severances when needed for reporting purposes.” Public comments will be accepted through June 3, 2022. [Read more.](#)

**RRC Notice for Operators – Texas.** On May 20, the Texas Railroad Commission announced that “Effective September 1, 2022, the Railroad Commission of Texas (RRC) will no longer accept hard copy filings of the Form H-10, *Annual Disposal/Injection Well Monitoring Report*. Oil and gas operators should file the form online using the RRC Online System at <https://webapps.rrc.texas.gov/security/login.do>.” For more information, [read more here](#). If you have questions regarding this notice, contact the Injection-Storage Permits Unit of the RRC’s Oil and Gas Division at [H10info@rrc.texas.gov](mailto:H10info@rrc.texas.gov) or 512-463-6792. [Read more.](#)

**Sunset Advisory Commission – Texas.** On May 25, the Texas Sunset Advisory Commission announced that the [Sunset Staff Report on the Texas Commission on Environmental Quality](#) and [Texas Low-Level Radioactive Waste Disposal Compact Commission](#), as submitted to the Sunset Advisory Commission, are available for review on their website, [sunset.texas.gov](http://sunset.texas.gov). According to the Commission, “Sunset is the regular assessment of the continuing need for a state agency or program to exist. Unlike other legislative oversight agencies that evaluate an agency’s financial accountability or compliance with state and federal laws, Sunset starts by asking the basic question – is the agency still needed? If the answer is no, Sunset recommends abolishing the agency or transferring its functions to another agency with similar responsibilities. If the answer is yes, Sunset further evaluates the agency’s programs, operations, and

public services and recommends ways to make the agency more effective and efficient. During an agency’s review, Sunset seeks comments and suggestions from regulated entities and individuals, stakeholders, and the public.” [Read more.](#) The Commission has scheduled a public hearing on the reports for June 22, 2022. “At that time public testimony will be taken. An agenda specifying the hearing date, time, location, and the order of agencies scheduled for testimony will be [available on our website](#) as soon as the hearing is posted.” Public comments may be submitted by June 9, 2022 and you may do so here: <https://www.sunset.texas.gov/input-form>. You may also contact the Commission by phone: (512) 463-1300 or fax: (512) 463-0705 or email: [sunset@sunset.texas.gov](mailto:sunset@sunset.texas.gov) for further information. [Read more.](#)

## STATE – Judicial

**Orphaned Wells – Louisiana.** On April 6, in [Lite/Explorations, LLC v. Aegis Development Co.](#) (Case No. 21-741), the Louisiana Court of Appeal, Third Circuit, addressed an appeal by the Office of Conservation of the Louisiana Department of Natural Resources (LDNR) regarding an oilfield environmental contamination suit in which the Court “denied the LDNR’s claims for recovery of over 6.3 million dollars in emergency costs from prior operators of an orphaned well. The Court held that, when the LDNR spends monies from the Oilfield Site Restoration Fund on emergencies, it can only recoup those costs from the well’s operator of record and its working interest owners.” As the Court explained, the “Office of Conservation argues that both Pioneer and Gary, being prior operators of the well, are on the hook for the restoration costs expended by the fund because the Lyon Well was orphaned and there was no site-specific trust fund ever established for the well.” The Court noted that while they “agree with the Office of Conservation’s argument that for typical abandoned wells, La.R.S. 30:93A(1)-(3) provides for recovery from not only the ‘responsible party’ but also prior operators and working interest owners, we find the clear and unambiguous language utilized by the legislature in La.R.S. 30:93A(4), 30:86E(5), and

30:86(G) creates a separate and distinct limitation as to recoupment of costs incurred pursuant to a response to any emergency as provided in La.R.S. 30:6.1.” [Read more.](#)

## INDUSTRY NEWS FLASH

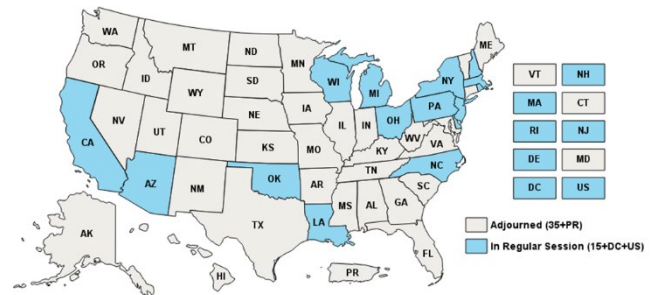
► **Railroad Commission Chairman beats back primary challenger.** Texas Railroad Commission Chairman Wayne Christian overwhelmingly defeated his GOP primary challenger, oil and gas lawyer Sarah Stogner, in last Tuesday’s primaries. Christian, heavily favored to hold his seat, will now face Democrat Luke Warford in the general election in November. [Read more.](#)

► **TIME magazine features article on necessity of fossil fuels.** On May 12, energy author and professor Vaclav Smil made the case for the necessity of fossil fuels in modern society and how we cannot function without them. Smil explains how “modern societies would be impossible without mass-scale production of many man-made materials” and those materials all require fossil fuels. [Read more.](#)

► **Domestic oil and gas employment to rise in 2022.** On May 18, the *Oil & Gas Journal* reported that domestic “oil and gas employment is set to expand by 12.5% this year, rising to 971,000 total jobs by end [of] 2022 from around 863,000, according to Rystad Energy research. The total number of jobs in 2027 is expected to hit 1.09 million, a marginal increase from the 1.07 million in the sector pre-COVID in 2019.” [Read more.](#)

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes:** Arizona, California, Delaware, Louisiana, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, and Wisconsin are in regular session. The U.S. Congress is also in session.

The following states adjourned their 2022 legislative sessions on the dates provided: **Alaska** (May 18), **Kansas** and **Minnesota** (May 23) and **Iowa** (May 25).

The following states are scheduled to adjourn their 2022 legislative sessions on the dates provided: **Oklahoma** (May 27) and **New York** (June 2).

**Oklahoma** lawmakers called themselves into a concurrent special session on May 18 to gain additional powers over the direction of \$1.87 billion in federal coronavirus relief funds under the American Rescue Plan Act, reports [Oklahoma Watch](#). The concurrent special session may continue past the required adjournment of the regular session by May 27.

The **Virginia** General Assembly is scheduled to reconvene on June 1 to vote on a proposed two-year state budget, reports [The Washington Post](#). The rival House and Senate bills were \$3 billion apart in March when the General Assembly tabled the bills, pushing the legislation to a special session. Legislators began the special session in April at the call of Republican Gov. Glenn Youngkin but gavelled in and out quickly as there was no compromise to vote on. The final details on the spending plan are still being debated, but budget

negotiators are confident they will have a deal that bridges the \$3 billion gap before the start of the session. Virginia must enact a spending plan by that start of the new fiscal year on July 1 to avoid a government shutdown.

**Oklahoma** Republican Gov. Kevin Stitt held a [press conference](#) calling for a special session of the legislature on June 13 to eliminate the state sales tax on groceries and reduce the personal income tax “for all Oklahomans,” reports [KFOR](#). Despite bipartisan legislation to end the state grocery tax, the final budget agreement omitted the proposals. Governor Stitt line-item vetoed two portions of the budget and criticized his exclusion from the budget negotiating process, requiring the proposals to eliminate the state sales tax on groceries be brought back to the table during the special session.

**Signing Deadlines** (by date): **Maryland** Republican Gov. Larry Hogan has until May 31 to act on legislation or it becomes law without signature. **Colorado** Democratic Gov. Jared Polis has until June 10 to act on legislation or it becomes law without signature. **Minnesota** Democratic Gov. Tim Walz has until June 10 to act on legislation or it is pocket vetoed. **Iowa** Republican Gov. Kim Reynolds has until June 24 to act on legislation or it is pocket vetoed. **Missouri** Republican Gov. Mike Parson has until June 27 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. **Arkansas** Republican Gov. Asa Hutchinson has 20 days from presentment, Sundays excluded, 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. **Illinois** Democratic Gov. J.B. Pritzker has 60 days from presentment 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. **Kentucky** Democratic Gov. Andy Beshear has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature.

**Mississippi** Republican Gov. Tate Reeves has 15 days from presentment to act on legislation or it becomes law without signature. **Nebraska** Republican Gov. Pete Ricketts has five days from presentment, Sundays are excepted, to act on legislation or it becomes law without signature. **South Carolina** Republican Gov. Henry McMaster has two days after the next meeting of the legislature 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 2022 interim committee hearings: [Arkansas](#), [Colorado](#), [Connecticut](#), [Illinois House](#), [Indiana](#), [Maine](#), [Minnesota](#), [Montana](#), [Nevada](#), [New Mexico](#), [North Dakota](#), [Rhode Island](#), [South Carolina House](#) and [Senate](#), [South Dakota](#), [Tennessee](#), [Utah](#), [Virginia](#), [Washington](#), [West Virginia](#), and [Wyoming](#). ■

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# GOVERNMENTAL AFFAIRS REPORT

## Highlights At-A-Glance

### FEDERAL – Legislative

**House Methane Emissions Hearing.** On June 8, the U.S. House of Representatives Committee on Science, Space, and Technology held a hearing, *Detecting and Quantifying Methane Emissions from the Oil and Gas Sector*. The purpose of the hearing was to continue the committee's work on methane emissions which began in early 2021 in which it "initiated an investigation into methane leaks and strategies for detecting them in the oil and gas sector. The purpose of the investigation was to inform the role of the Federal research and development enterprise in reducing and quantifying methane emissions." Witnesses included various scientific experts. To access a recording of the hearing and complete witness testimony, [Read more](#).

### FEDERAL – Regulatory

**Interior Department; U.S. Fish and Wildlife Service Information Collection.** On June 1, the Interior Department's U.S. Fish and Wildlife Service (FWS) published a notice of information collection, *Agency Information Collection Activities; Non-Federal Oil and Gas Operations on National Wildlife Refuge System Lands* ([87 Fed. Reg. 33200](#)), proposing to revise an existing collection of information to regulate non-Federal oil and gas operations on National Wildlife Refuge System (NWRS). According to the FWS, "The collection of information is necessary for the Service to properly balance the exercise of non-Federal oil and gas rights within national wildlife refuge boundaries with the Service's responsibility to protect wildlife and habitat, water quality and quantity, wildlife-dependent recreational opportunities, and the health and safety of employees and visitors on NWRS lands." The public comment period is open through August 1, 2022. [Read more](#).

### **BLM Bears Ear National Monument Advisory Committee – Utah.**

On June 3, the Bureau of Land Management (BLM) published a *Notice of Public Meeting, Bears Ears National Monument Advisory Committee, Utah* ([87 Fed. Reg. 33829](#)). The Committee will hold virtual meetings on June 29-30, 2022, and September 13, 2022, and an in-person meeting on December 7, 2022. The Committee provides "advice and information to the Secretary of the Interior through the Director of the BLM, and to the Secretary of the U.S. Department of Agriculture (USDA) through the Chief of the USDA Forest Service, to consider for managing the Bears Ears National Monument. The 15-member committee represents a wide range of interests including local and state government, paleontological and archaeological expertise, the conservation community, livestock grazing permittees, Tribal members, developed and dispersed recreation interests, private landowners, local business owners, and the public at large." Public comments will be received at 1:30 p.m. each meeting day and the meetings are open to the public. [Read more](#).

### FEDERAL – Judicial

**BLM Leasing.** On June 1, the U.S. District Court for the District of Columbia denied as moot motions made by intervening states and industry groups, including Wyoming, Utah, the American Petroleum Institute, and Anschutz Exploration Corp., seeking that the court reconsider a settlement agreement in a case dating back to 2016. In *WildEarth Guardians v. Haaland* (Case No. 1:16-cv-01724), plaintiff conservation groups reached a settlement with the U.S. Department of the Interior regarding certain Bureau of Land Management (BLM) leasing. The states and industry groups intervened challenging the voluntary dismissal of the case. For background, as reported by



*Bloomberg Government*, “The conservation groups filed multiple lawsuits after the Bureau of Land Management approved lease sales on millions of acres of public lands in Wyoming, Utah, and three other western states [and argued] BLM’s oil and gas leasing program contributes to greenhouse gas pollution [...] contending the agency had failed to address the climate impacts. The court ruled in the groups’ favor in one lawsuit in 2019 and ordered BLM to take a hard look at the climate impacts of the lease sales. The Biden administration later agreed to reconsider the leasing decisions and conduct more environmental analysis under the National Environmental Policy Act.” In dismissing the intervenors’ action, the court noted that it “understands Intervenor’s frustration with the delay and uncertainty that this litigation has caused thus far. Still, it falls short of clear legal prejudice or undue prejudice.” Although “Anschutz argued the settlement could affect its contractual rights under the leases” the court held that “there’s nothing in the settlement that requires vacatur of the leases, blocks BLM from approving applications for drilling permits, or prevents any contractual claim Anschutz brings if the agency changes course.” Further, “The agency’s decision after it completes further NEPA review isn’t a foregone conclusion and future lawsuits regarding the adequacy of future NEPA analysis and any new decisions based on it is only speculative at this time.” [Read more.](#)

**Independent Contractors – Texas.** On May 11, the U.S. Court of Appeals, Fifth Circuit (Texas), issued its opinion in [Hargrave v. AIM Directional Services, L.L.C.](#) (Case No. No. 21-40496), “giving a big win to energy-sector companies by concluding that a directional driller was an independent contractor rather than an employee.” Though not a case specifically about landmen, here the plaintiff was a directional driller who claimed he was misclassified as an independent contractor rather than an employee under the Fair Labor Standards Act (FLSA) and New Mexico Minimum Wage Act. In finding “that the plaintiff’s classification as an independent contractor was proper” the court applied a five-factor test to affirm the lower court ruling. As noted by national employment law firm, Littler Mendelson P.C., “Though

the decision is limited to companies operating within the Fifth Circuit’s jurisdiction, the *Hargrave* holding should be seen as a victory for drilling or related companies in the energy sector with similar employment and contracting systems in place.”

[Read more.](#)

## **STATE – Legislative**

**Worker Misclassification – Colorado.** (*Update to 5/9/22 Report*) On June 3, Gov. Jared Polis (D) signed SB22-161 into law. Sponsored by Sen. Sonya Jaquez Lewis (D), the Act “updates and modifies laws pertaining to the payment of wages, employee misclassification, and workplace safety, and the enforcement procedures and remedies for violations of those laws” and specifically establishes the worker and employee unit in the Department of Law to investigate and enforce wage theft, unemployment insurance and misclassification of employees. The Act also increases employer penalties for failure to provide certain information or denying access to premises for investigative purposes. The Act has multiple effective dates. [Read more.](#)

**Oil and Gas Reporting – Colorado.** (*Update to 4/25/22 Report*) On June 8, Gov. Jared Polis (D) signed HB22-1361 into law. Sponsored by Rep. Andrew Boesenecker (D), the Act requires that the Office of State Auditor conduct certain audits and specified reporting of oil and gas operations in the state. The Act is effective July 1, 2022. [Read more.](#)

**Orphaned Wells – Colorado.** (*Update to 4/25/22 Report*) On June 2, Gov. Jared Polis (D) signed SB22-198 into law. Sponsored by Sen. Stephen Fenberg (D), the Act creates the orphaned wells mitigation enterprise in the Department of Natural Resources for plugging, reclaiming, and remediating orphaned wells located in the state for which no owner or operator can be found or for which the owner or operator is unwilling or unable to pay the costs of plugging and abandoning the well; ensuring that the costs associated with the plugging, reclaiming, and remediating of orphaned wells are borne by operators in the form of mitigation fees; and determining the amounts of mitigation fees;

and imposing and collecting mitigation fees. The Act is effective July 1, 2022. [Read more.](#)

**Ad Valorem Credits; Severance Tax – Colorado.** *(Update to 4/25/22 Report)* On June 7, Gov. Jared Polis (D) signed HB22-1391 into law. Sponsored by Rep. Julie McCluskie (D), the Act changes the calculation of the ad valorem credit allowed against the state severance tax on oil and gas. The Act is effective 90 days following session adjournment. [Read more.](#)

**Eminent Domain; Storage Facilities – Louisiana.** *(Update to 4/11/22 Report)* On May 26, Gov. John Bel Edwards (D) signed HB 267 into law. Sponsored by Rep. Neil Riser (R), the Act amended prior law to provide “that in Caldwell Parish, persons may be prohibited from drilling through a storage facility only when the following is satisfied: (1) A period of five years has elapsed from the drilling or operation of any oil or gas well within the boundaries of the storage facility to the underground reservoir below. (2) All reservoirs that were drilled to and produced in any oil or gas well located within the boundaries of the storage facility are no longer capable of producing minerals in paying quantities.” [Read more.](#)

**Orphan Well Plugging – Louisiana.** *(Update to 5/31/22 Report)* On June 3, [SB 23](#) was signed into law by Gov. John Bel Edwards (D). The Act takes immediate effect. The Act provides for the deposit of monies into the Oilfield Site Restoration Fund. According to Louisiana law firm Liskow & Lewis, “Congress has dedicated \$4.7 billion to orphan well plugging, remediation, and restoration activities nationwide through the Infrastructure Investment and Jobs Act (IIJA). A substantial portion of this money will be apportioned to the various states based on each state’s capacity and ability to effectively utilize the funds to plug orphan wells.” The bill is “designed to maximize Louisiana’s share of IIJA funds by streamlining the procedures for depositing monies into the Oilfield Site Restoration Fund and then utilizing those funds quickly and efficiently.” [Read more.](#)

**Remote Notarial Acts – Louisiana.** *(Update to 4/25/22 Report)* On May 25, Gov. John Bel Edwards

(D) signed HB 903 into law. Sponsored by Rep. Greg Miller (R), the Act amended existing notary law to provide that a remote online notarial act is deemed to be executed in any parish where the notary is physically located. The Act is effective August 1, 2022. [Read more.](#)

**Russian Oil Imports – Louisiana.** On May 31, Gov. John Bel Edwards (D) signed SB 196 into law. Sponsored by Sen. Stewart Cathey (R), the Act “prohibits the importation of crude oil and petroleum products from the Russian Federation into Louisiana.” The Act takes immediate effect. [Read more.](#)

**Notarial Acts – Maryland.** *(Update to 3/28/22 Report)* On May 29, Gov. Larry Hogan (R) signed HB 663 into law. Sponsored by Del. Anne Kaiser (D), the Act “(1) increases the maximum fees for an original notarial act and performance of a remote notarial act; (2) repeals an exception to remote notarization provisions that applies to wills and trust instruments; (3) clarifies the application of specified requirements for credential analysis and identity proofing as they pertain to remote notarial acts; (4) establishes requirements and procedures for remote notarial acts involving a tangible record; (5) specifies procedures by which a notary public may administer an oath or affirmation to a remotely located individual; (6) authorizes the Secretary of State (SOS) to adopt regulations prescribing the methods for reasonable confirmation of a tangible record; and (7) makes clarifying changes to communication technology requirements applicable to remote notarizations. Finally, the bill specifies that the notarization of any document under the requirements of specified executive orders authorizing remote notarizations must be deemed valid if the notarization occurred during the time that the orders were in effect.” The Act took effect on June 1, 2022. Companion Senate bill, [SB 317](#), was also signed into law on May 29 and took effect on June 1, 2022. [Read more.](#)

## **[STATE – Regulatory](#)**

**Railroad Commission Rulemaking – Texas.** *(Update to 5/9/22 Report)* This update reflects the May 31 amendment by the Texas Railroad Commission

(RRC) that extends the public comment deadline date. As originally reported, the RRC published proposed amendments to [16 TAC Chapter 5](#) to implement [HB 1284 \(2021 Legislative Session\)](#) regarding carbon sequestration wells at its open meeting on May 3. According to the RRC, “The proposed amendments would modify various sections of RRC rules, including those describing the applicability of the rules, application requirements, notice and hearing requirements, permit standards and reporting, recordkeeping, and more.” Leslie Savage, RRC’s chief geologist said, “Clearly, there is concern today about levels of carbon dioxide in the atmosphere and its impact on the environment. Class VI injection wells have the potential to be part of the solution by trapping the CO<sub>2</sub> in appropriate geologic formations. We hope our program will be able to streamline the process and allow for the timely issuing of Class VI permits.” Public comments were originally to be accepted through June 20, but the RRC amended the deadline to extend the comment period through July 1, 2022 until 5:00 pm. The [proposal is available here](#). For further questions regarding the proposed rulemaking, you may contact Kellie Martinec, Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, by email: [kellie.martinec@rrc.texas.gov](mailto:kellie.martinec@rrc.texas.gov) or [rulescoordinator@rrc.texas.gov](mailto:rulescoordinator@rrc.texas.gov). [Read more](#).

## **STATE – Judicial**

**Well Permitting; State Regulatory Authority – Texas.** (*Update to 6/10/19 Report*) On June 10, the Texas Supreme Court finally issued its ruling in the long-running case, *Dyer v. Texas Commission on Environmental Quality* (Case No. 19-1104). [Read case background here](#). As reported by *Bloomberg Law*, in affirming the appellate court opinion, the court found that the Texas Commission on Environmental Quality (TCEQ) acted within its authority in granting an oil and gas well injection permit despite the Texas Railroad Commission (RRC) withdrawing a “no harm” letter. The court held that the TCEQ did not violate the Texas Administrative Procedure Act when it granted a company a permit to drill and operate four injection wells over the Cockfield Formation in the Conroe Oil Field, north of Houston. In the case, Conroe city

officials alleged that the TCEQ overstepped its authority when it granted the permit despite the RRC rescinding the “no harm” letter. As noted by the court, Texas law requires a RRC letter to be submitted with the TCEQ permit application, verifying the prospective wells don’t harm existing reservoirs. But as the court stated, the RRC’s rescission of the letter had not yet become effective so the existing letter satisfied the law’s requirement and TCEQ made its decision with “all of the relevant evidence before it.” [Read more](#).

## **INDUSTRY NEWS FLASH**

► **OPEC+ nations agree to 50% production increase.** On June 2, OPEC+ nations agreed to “increase oil output by about 50 percent for the next two months after initially standing by a 400,000-barrel release. Ministers announced an agreement to increase output in July and August by 648,000 barrels a day. The move represents a reversal after the oil-producing nations had previously refused to budge on output, even after oil prices soared following Russia’s invasion of Ukraine.” [Read more](#).

► **ExxonMobil and Chevron shareholders approve climate change proposals.** In late May, shareholders for both ExxonMobil and Chevron approved climate change related proposals. ExxonMobil shareholders approved “a proposal to examine the company’s long-term assumptions about prices and other business criteria, in light of the need to cut climate-warming emissions” and the owners of 98 percent of Chevron stock “approved a resolution to report on the reliability of the company’s measurements of methane.” [Read more](#).





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# GOVERNMENTAL AFFAIRS REPORT

## Highlights At-A-Glance

### FEDERAL – Legislative

**House Fossil Fuel Campaigns Request.** On June 12, U.S. House of Representatives lawmakers Raúl Grijalva (D-AZ) and Katie Porter (D-CA) sent letters requesting documents from five public relations firms and the American Petroleum Institute “detailing their work for fossil fuel companies.” [See the letters here.](#) The representatives are “asking for all documents pertaining to the firms’ campaigns for oil, gas and coal companies, dating back to 2013.” According to Rep. Grijalva, “Thanks to the accidental truth-telling by the former ExxonMobil lobbyist, we know there is a lot to uncover about the ways fossil fuel companies spread disinformation and lies about climate change. If we’re going to take meaningful action against climate change, we need to be armed with facts and science, not industry propaganda. The American people deserve to know the truth and we intend to do our job to find it.” The groups have yet to respond to the request. [Read more.](#)

**House Methane Emissions Hearing.** On June 14, the House Select Committee on the Climate Crisis held a hearing titled, “State Perspectives on Cutting Methane Pollution” featuring the governors of New Mexico and Wyoming, “who will share perspectives on their states’ efforts to cut harmful methane pollution from oil and gas production.” The hearing also focused “on how states have implemented funding from the Bipartisan Infrastructure Law, which invested billions of dollars to plug abandoned oil and gas wells across America.” For complete witness testimony and a recording of the hearing, [Read more.](#)

### FEDERAL – Regulatory

**Oil and Gas Industry Responds to President Biden’s Letter to Oil Refiners.** On June 16, the American

Petroleum Institute (API) and ExxonMobil Corporation both responded to a recent letter sent by President Biden to oil refiners. “While we appreciate the opportunity to open increased dialogue with the White House, the administration’s misguided policy agenda shifting away from domestic oil and natural gas has compounded inflationary pressures and added headwinds to companies’ daily efforts to meet growing energy needs while reducing emissions,” said API President and CEO Mike Sommers. “I reinforced in a letter to President Biden and his Cabinet yesterday [June 14] ten meaningful policy actions to ultimately alleviate pain at the pump and strengthen national security, including approving critical energy infrastructure, increasing access to capital, holding energy lease sales, among other urgent priorities,” he added in the response. ExxonMobil also responded, noting “that it has been in regular contact with the administration to update the President and his staff on how ExxonMobil has been investing more than any other company to develop U.S. oil and gas supplies.” In a statement posted to its website, ExxonMobil said, “This includes investments in the U.S. of more than \$50 billion over the past five years, resulting in an almost 50 percent increase in our U.S. production of oil during this period.” ExxonMobil added that “Longer term, government can promote investment through clear and consistent policy that supports U.S. resource development, such as regular and predictable lease sales, as well as streamlined regulatory approval and support for infrastructure such as pipelines.” As widely reported, President Biden “told U.S. oil refiners that unprecedented profit margins are unacceptable and called for ‘immediate action’ to improve capacity. Biden said his administration was prepared to take any ‘reasonable and appropriate’ steps that would help companies increase output in the near term as reported by Bloomberg. [Read more.](#) In related reporting, Chevron also responded to President

Biden's recent claims that oil and gas companies are earning record profits and not producing enough gasoline for consumers. "We understand the significant concerns around higher fuel prices currently faced by consumers around the country, and the world," Chevron said in a statement targeting Biden. "We share these concerns, and expect the Administration's approach to energy policy will start to better reflect the importance of addressing them." Chevron said "it will be increasing Permian Basin production by more than 15 percent this year. ExxonMobil says it has increased refining capacity to process U.S. light crude by around 250,000 barrels a day." [Read more.](#)

### **FEDERAL – Judicial**

**Federal Leasing – Washington, DC.** On June 15, environmental groups sued the U.S. Department of the Interior and Bureau of Land Management (BLM) in the U.S. District Court for the District of Columbia in [Center for Biological Diversity v. U.S. Dept. of the Interior](#) (Case No. 1:22-cv-01716), challenging the approval "of at least 3,535 applications for permit to drill ('APDs') for oil and gas in New Mexico's Permian Basin and Wyoming's Powder River Basin in violation" of the National Environmental Policy, the Endangered Species Act (ESA), and the Federal Land Policy and Management Act (FLPMA), and those statutes' implementing regulations. The litigants claim that "In approving these APDs, BLM failed to evaluate the cumulative impacts of greenhouse gas emissions that will result from these approvals under NEPA, and failed to consider the impact of these emissions as they relate to BLM's procedural and substantive obligations under the ESA and FLPMA." Specifically, the litigants say "BLM failed to take the required hard look at the cumulative GHG emissions and the impacts of those emissions on climate change. BLM also failed to discuss the cumulative effects of these emissions across federal public lands managed through BLM's oil and gas program." The litigants are also calling for "environmental justice" in the case "where drilling occurs or for disproportionately climate impacted environmental justice communities" as well as making claims that there was a "failure to consult

on climate-impacted species." The Interior Department has yet to respond to the lawsuit. [Read more.](#)

### **STATE – Legislative**

**Emergency Well Orders – Michigan.** On June 9, HB 6187 was introduced by Rep. Daire Rendon (R). The bill would repeal [Section 62507](#) of the Natural Resources and Environmental Protection Act which provided that the "supervisor of mineral wells, acting directly or through his or her deputy or authorized representative, may issue emergency orders without a public hearing to implement this part." [Read more.](#)

### **STATE – Regulatory**

**Colorado Oil & Gas Conservation Commission Appointments – Colorado.** On June 17, Gov. Jared Polis (D) "announced two new appointments to the Colorado Oil & Gas Conservation Commission (COGCC) who will be members of the professional commission established by [SB19-181](#)." Brett Ackerman of Colorado Springs, Colorado, will "serve as a member with formal training or substantial experience in environmental protection, wildlife protection, or reclamation." Michael Cross of Arvada, will "serve as a member with substantial experience in the oil and gas industry." In particular, "Cross has significant industry legal experience, especially on energy industry regulatory and policy issues in the oil, natural gas, and mining sectors, as well as federal and state statutory and regulatory compliance issues. Additionally, he has experience in tribal, federal and state oil and gas leases in Colorado's basins." Both terms are effective July 1, 2022 and expire June 30, 2026. [Read more.](#)

**Renewables; Power Siting Board – Ohio.** On June 16, the Ohio Power Siting Board (OPSB) "issued a comprehensive set of proposed revisions to the rules governing the procedures before the OPSB and its siting criteria." OPSB is a state agency "responsible for siting certain energy generation and transmission infrastructure facilities that fall within the definition of a 'major utility facility,' including utility-scale wind and solar projects." The objectives for the new rules are:

“1) improving the OPSB review process and public participation in that process; 2) improving upon the technical information filed with an application; and 3) enhancing the construction monitoring and compliance process after obtaining an OPSB certificate.” For an outline and summary of the major rule revisions, [Read more](#).

**Bank Boycott of Fossil Fuel Industry – West Virginia.** On June 13, West Virginia State Treasurer Wiley Moore (R) announced he has sent notices [to six major financial institutions informing them of a possible boycott](#) “on doing business with West Virginia government entities. This move by the West Virginia state government implements a state law passed earlier this year that enables ‘the [West Virginia] Treasurer’s Office to create a Restricted Financial Institution List consisting of financial institutions that have publicly stated they will refuse, terminate, or limit doing business with coal, oil, or natural gas companies without a reasonable business purpose. Notably, this law would then preclude these financial institutions from being ‘eligib[le] for contracts for state banking services.’” According to the Treasurer’s Office, “Notices were issued on Friday, June 10. The financial institutions that have been sent notices will officially be placed on the list in 45 days, unless they respond with information demonstrating they are not engaged in a boycott of fossil fuel companies. The institutions have 30 days from the time they receive the initial notice to submit a response to the Treasurer’s Office.” [Read more](#).

## INDUSTRY NEWS FLASH

► **API Unveils Ten-Point Policy Plan to Restore U.S. Energy Leadership, Fuel Economic Recovery.** On June 14, the American Petroleum Institute (API) released a [10 in 2022 plan](#) that features “10 policies that policymakers can advance today to unlock American energy, fuel economic recovery, and strengthen national security.” The API delivered its plan to President Biden ([read letter here](#)) and API President and CEO Mike Sommers said, “These 10 in

’22 policies are a framework for new energy leadership for our nation, unleashing investment in America and creating new energy access while avoiding harmful government policies and duplicative regulation. It’s time to lead.” [Read more](#).

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes:** Arizona, California, Delaware, Massachusetts, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Rhode Island and Wisconsin are in regular session. The U.S. Congress is also in session.

The following states adjourned their 2022 legislative sessions on the dates provided: **Arizona** (June 24), **Delaware**, **Rhode Island** and **North Carolina** (June 30).

The **Virginia** General Assembly adjourned their special session on June 17 after taking up a final series of proposed amendments to the budget, reports [The Washington Post](#). Republican Gov. Glenn Youngkin must sign or veto the compromise budget by the start of the next fiscal year on July 1.

**Louisiana** lawmakers concluded their special session on June 18, without approving an additional majority-Black congressional district, reports [KALB](#). U.S. District Judge Shelly Dick has scheduled a hearing on the issue for June 29.

**Indiana** Republican Gov. Eric Holcomb signed a [proclamation](#) calling the legislature into a special



session on July 6. Governor Holcomb wants to return excess state revenue to Hoosier taxpayers to combat inflation, but lawmakers could also pass new abortion restrictions during the session, reports the [Indianapolis Star](#).

**Signing Deadlines** (by date): **Iowa** Republican Gov. Kim Reynolds had until June 24 to act on legislation or it is pocket vetoed. **Missouri** Republican Gov. Mike Parson has until June 27 to act on legislation or it becomes law without signature. **Hawaii** Democratic Gov. David Ige has until July 12 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. **Florida** Republican Gov. Ron DeSantis has 15 days from presentment to act on legislation or it becomes law without signature. **Louisiana** Democratic Gov. John Bel Edwards has 20 days from presentment to act on legislation or it becomes law without signature. **Maine** Democratic Gov. Janet Mills must act on legislation presented within 10 days of adjournment or it becomes law unless returned within three days after the next meeting of the same legislature. **Nebraska** Republican Gov. Pete Ricketts has five days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **New Hampshire** Republican Gov. Chris Sununu has five days from presentment to act on legislation or it is pocket vetoed. **New York** Democratic Gov. Kathy Hochul has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **South Carolina** Republican Gov. Henry McMaster has two days after the next meeting of the legislature to act on legislation or it becomes law without signature.

The following states are currently holding 2022 interim committee hearings: [Arkansas](#), [Colorado](#), [Connecticut](#), [Georgia](#), [Idaho](#), [Illinois House](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Missouri House](#) and [Senate](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Montana](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [North Dakota](#), [Oregon](#), [Rhode Island](#), [South Carolina House](#) and [Senate](#), [South Dakota](#), [Tennessee](#), [Utah](#),

[Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#) and [Wyoming](#). ■

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