

# GOVERNMENTAL AFFAIRS REPORT

## FEDERAL – Legislative

### **S. 5198 – Well Remediation Tax Incentives.**

On September 26, Sen. Roger Marshall (R-KS) was joined by Sen. James Lankford (R-OK) in introducing [S. 5198](#). The bill is aimed at supporting “small oil producers and help better utilize resources when closing wells after production.” The bill “offers a tax incentive that allows producers to deposit funds into a tax-free account. The principal and any gains can be realized without tax if the money is spent on capping and remediating wells.” According to Sen. Marshall, “Kansas and Oklahoma are known for their small, independent ‘stripper wells’ that produce vital energy for the region. These wells pose financial challenges when they reach the late stages of operations and must be capped and removed. This bill is designed to proactively incentivize and encourage producers to save for these future expenses, promoting responsible stewardship of our natural resources.” [Read more.](#)

## FEDERAL – Regulatory

### **BLM Bears Ears National Monument Resource**

**Management Plan.** On October 4, the Bureau of Land Management (BLM) published a *Notice of Availability of the Proposed Resource Management Plan and Final Environmental Impact Statement for Bears Ears National Monument in Utah* ([89 Fed. Reg. 80916](#)). The notice provides for a Proposed Resource Management Plan (RMP) and Final Environmental Impact Statement (EIS) for the Bears Ears National Monument which starts a 30-day protest period of the Proposed RMP. According to the BLM, “The proposed plan, if approved, would ensure lasting protections for the monument’s cultural and natural resources, including ancestral cliff dwellings and culturally significant landscapes, while providing continued opportunities for outdoor recreation such as hiking, camping, and hunting.

The plan incorporates Tribal input, feedback from cooperators, stakeholders, and the public, and is informed by the best available science, including Indigenous Knowledge, to ensure balanced use and protection of important resources.” [Read more.](#)

**EPA Methane Emissions Rule.** To follow up our reporting since 2022, the American Exploration & Production Council reports that the U.S. Environmental Protection Agency (EPA) has “quietly released a Frequently Asked Questions (FAQ) document for the implementation of OOOObc. The guidance includes additional descriptions and details on provisions in the final rule; for example, what constitutes modification for certain sources.” EPA Subpart OOOOb relates to “Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After December 6, 2022.” That subpart “establishes emission standards and compliance schedules for the control of the pollutant greenhouse gases (GHG). The greenhouse gas standard in this subpart is in the form of a limitation on emissions of methane from affected facilities in the crude oil and natural gas source category that commence construction, modification, or reconstruction after December 6, 2022.” [Read more about OOOOb here.](#) Subpart OOOOc relates to “Emissions Guidelines for Greenhouse Gas Emissions From Existing Crude Oil and Natural Gas Facilities.” According to the EPA, that subpart “establishes emission guidelines and compliance schedules for the control of greenhouse gas (GHG) emissions from designated facilities in the crude oil and natural gas source category as defined.” [Read more about OOOOc here.](#) The EPA’s new FAQ webpage is [available here.](#)

### **NLRB General Counsel Non-Compete Internal**

**Memorandum.** On October 7, the National Labor Relations Board (NLRB) General Counsel Jennifer

Abruzzo issued an internal staff memorandum (GC 25-01) urging the NLRB Board to “find certain non-compete provisions unlawful but also, as fully as possible, to remedy the harmful effects on employees when employers use and apply them. In addition, I believe that certain ‘stay-or-pay’ provisions, under which an employee must pay their employer if they separate from employment, infringe on employees’ [Section 7 rights](#) in many of the same ways that non-compete agreements do and that such provisions therefore also violate [Section 8\(a\)\(1\) of the Act](#) unless narrowly tailored to minimize that infringement. Part II of this memo sets forth my proposed framework for assessing the lawfulness of such provisions, the remedies I intend to seek before the Board, and the circumstances under which I will decline to issue complaint against preexisting stay-or-pay arrangements.” [Read the NLRB General Counsel memorandum here](#). Although NLRB actions are primarily enforced against unionized employees (see [NLRB FAQ on who is covered by the National Labor Relations Act here](#)), as noted by law firm Steptoe & Johnson, “According to a prior memorandum from Abruzzo’s office in May of 2023, non-compete clauses — except in limited circumstances — often violate [Section 7 of the NLRA](#), regardless of whether a unionized workforce is present in the workplace.” [Read more](#). Further, Steptoe & Johnson notes that “The latest memorandum announces that the NLRB will be seeking substantial ‘make-whole’ remedies in enforcement actions against employers that maintain what the GC’s office considers to be unlawful non-compete restrictions. These remedies can include compensating current and former employees for wages and benefits allegedly lost due to restrictions on their job mobility, even if they did not apply for a job as a result of the non-compete restriction, as well as their costs for any retraining efforts to become eligible for a position in a different industry, relocation costs to avoid a restrictive area, and even legal fees.” Additionally, “this latest memorandum also targets what it calls ‘stay-or-pay’ provisions, which require employees to pay their employer if they leave their job voluntarily or involuntarily within a certain time frame. Examples include training repayment agreement provisions (TRAPs), sign-on bonuses, and penalties for early resignation. The GC has now proclaimed that, like

non-compete agreements, ‘stay-or-pay’ provisions limit employee mobility and discourage workers from exercising their rights under the NLRA, such as organizing or seeking better working conditions, and thus violate the NLRA. Only programs that 1) offer optional and voluntary benefits, 2) have reasonable and narrow terms for repayment, and 3) are not enforced against employees terminated without cause will escape scrutiny. The GC has also stated that employers with existing ‘stay-or-pay’ programs have a 60-day window from the date of this memorandum to ‘cure’ their programs in order to meet this test.” Law firm Fisher & Philipps notes that “While GC Memos like this one don’t represent the official legal position of the entire agency, they do represent the policy and guidance for all Regional Offices investigating and prosecuting charges against employers.” For a detailed legal analysis of the memo and its implications, [Read more](#). Additional resources are [available here](#) and [here](#) and [here](#).

## **[FEDERAL – Judicial](#)**

### **EPA Methane Emissions Rule – U.S. Supreme Court.**

As an update to our reporting since 2023, on October 4, the U.S. Supreme Court declined to stay the U.S. Environmental Protection Agency’s (EPA) methane emissions rule while a case is pending in lower courts. [Read more about the rule here](#). As reported by the *Oil & Gas Journal*, the rule “requires companies to curb methane emissions from oil and gas production and storage and many processing and pipeline operations. EPA says the rule would slash methane emissions by 80% between 2024 and 2038 by minimizing the size and frequency of gas leaks. The regulations also target the routine flaring of natural gas.” [Read more](#). The decision by the high court not to intervene “allowed the Biden administration to continue enforcing, for the time being, a new rule that aims to curb emissions of the greenhouse gas methane from new and existing oil and gas facilities. The high court rejected a request from nearly half of the states and industry groups to put the measure from the Environmental Protection Agency on hold while proceedings over its legality continue. There were no noted dissents.” We will keep AAPL members updated as the lower court proceedings continue. [Read more](#).

## **STATE – Legislative**

### **Independent Contractor Protections – California.**

On September 28, Gov. Gavin Newsom (D) signed SB 988, known as the Freelance Worker Protection Act, into law. The bill imposes minimum requirements, commencing January 1, 2025, relating to contracts between a hiring party and a freelance worker (i.e. independent contractor) for an amount equal to or greater than \$250. “Specifically, the bill would require a hiring party to pay a freelance worker the compensation specified by a contract for professional services on or before the date specified by the contract or, if the contract does not specify a date, no later than 30 days after completion of the freelance worker’s services. The bill would require a contract between a hiring party and a freelance worker to be in writing and would require a hiring party to retain the contract for no less than 4 years. The bill would prohibit a hiring party from discriminating or taking adverse action against a freelance worker for taking specified actions relating to the enforcement of these provisions. The bill would authorize an aggrieved freelance worker or a public prosecutor to bring a civil action to enforce these provisions.” [Read more.](#)

**Climate Disclosure Reporting – California.** To follow up our prior reporting on [SB 219](#), signed into law by Gov. Gavin Newsom (D) on September 27, law firm Covington & Burling LLP recently provided a detailed summary and analysis of this climate disclosure legislation. The firm notes that “Companies that do business in California and meet certain revenue thresholds should continue to prepare to comply with the state’s landmark climate disclosure laws that impose reporting deadlines starting in 2026, even as a newly enacted state law gives California regulators more time and flexibility in promulgating implementing regulations.” SB 219 amended existing state climate disclosure laws, but “did not eliminate or alter substantive reporting requirements under either of the California climate disclosure laws. Nor did SB 219 delay the years in which reporting requirements begin. However, the new law did modify the 2023 statutes in several respects that are relevant for companies that will be subject to the climate

disclosure laws.” Notable changes to existing law reflected in SB 219 include those related to California Air Resources Board rulemaking timelines; timing of Scope 3 emissions disclosures deadlines; and consolidated reporting at a parent company level. [Read more.](#)

### **Personal Income Tax Cuts – West Virginia.**

On October 8, special session bill, [SB 2033x](#), passed both chambers and is awaiting signature from Gov. Jim Justice (R). The bill provides that beginning January 1, 2025, the personal income tax rate for certain individuals, joint filings, households, estates and trusts will be reduced by up to two percent adjusted for income. [Read more.](#)

**For all 600+ bills AAPL is currently monitoring and tracking for members, please see the continuously updated member-exclusive AAPL Governmental Affairs Bill Tracking Summary spreadsheet,** available through the AAPLConnect LANDNEWS and Governmental Affairs Network member forums [here](#) or on the AAPL website [here](#).

## **STATE – Regulatory**

**Methane Task Force – California.** The California Department of Conservation has announced it will hold its next Methane Task Force public meeting on October 16, 2024. As provided by the Department, “The virtual public meeting ‘will cover the finalized expenditure plan for Phase 2 of the State Oil and Gas Well Abandonment Program, an update on CARB’s Oil and Gas Regulation Amendment, and information about the rulemaking timeline and process for Leak Detection and Response. The meeting will include time for public comments.’” [Read more.](#)

### **City of Los Angeles Oil Well Bonding – California.**

On September 27, the Energy and Environment Committee of the City of Los Angeles City Council considered an amendment proposed by the Board of Fire Commissioners to increase bonding requirements for oil wells within the city limits. The California Independent Petroleum Association (CIPA) opposed the amendment and reportedly met with each member

of the committee. CIPA sent a letter to the committee pointing out “that the amendment is illegal since it is preempted by state law, is arbitrary, fails to take into account the state’s programs for idle and orphan wells, and failed to do the required CEQA analysis.” In the end, the committee did not adopt the amendment and agreed that the issue needed further study.

[Read more.](#)

**Energy & Carbon Management Commission Class VI Rulemaking – Colorado.** On October 9, the Colorado Energy & Carbon Management Commission (ECMC) announced it will host a remote virtual stakeholder meeting for its Class VI rulemaking on October 21, 2024. According to the ECMC, the agency will be considering additions and amendments to commission rules of practice and procedure for multiple rule series as indicated. [Read more.](#) According to the ECMC, the rulemaking is to begin on December 2, 2024. To request party status – which in Colorado means stakeholders can submit comments, participate in discussions, or attend official proceedings – which is due by October 16, 2024, you may [access the ECMC online form here](#). For more information on ECMC Class VI rulemaking including the purpose, details, and timelines, [Read more here](#).

#### **Community Solar Development – New Mexico.**

The New Mexico Public Regulation Commission (PRC) has announced the adoption of “amendments to New Mexico’s Community Solar Rule ([17.9.573 NMAC](#)) that will bring significant developments to the state’s solar energy landscape. Importantly, the PRC raised the statewide solar capacity cap from 200 MW to 500 MW, authorizing an additional 300 MW to New Mexico’s Community Solar program cap effective November 1, 2024.” [Read more about the amendments here](#). The original proposed rule (Utility - 24-00094-UT - IN THE MATTER OF POTENTIAL AMENDMENTS TO THE COMMUNITY SOLAR RULE, 17.9.573 NMAC) is [available here](#). According to law firm Beatty & Wozniak, “The capacity increase demonstrates New Mexico’s commitment to expanding solar power, encourages more investment in solar infrastructure, and aligns with both state renewable energy goals and federal funding opportunities. New Mexico was

recently awarded \$156 million under the EPA’s Solar for All program, which emphasizes solar access for low-income communities. This increase will enable New Mexico to optimize the benefits of such funding by expanding solar project availability in the years ahead.” [Read more.](#)

**New Mexico Environment Department Regional Haze Planning – New Mexico.** On October 4, the New Mexico Environment Department (NMED) announced that the Environmental Improvement Board scheduled a hearing beginning on December 18, 2024 “to consider NMED’s petition to adopt New Mexico’s proposed Regional Haze plan and new companion rule [20.2.68 NMAC](#) – Regional Haze Requirements.” [Read more.](#) According to the NMED, “The hearing will last as long as required to hear all testimony, evidence, and public comment and is expected to last approximately three days.” [Read more.](#) According to the NMED, “The goal of the rulemaking to establish enforceable emission limitations, 24 compliance schedules, and other measures that are necessary to make reasonable progress during the second 25 regional haze implementation period, and provisions to make these measures practicably enforceable, including 26 averaging times, monitoring requirements, and recordkeeping and reporting requirements.” To learn more about NMED Regional Haze Planning, including numerous resources, information about public hearings, and the public comment process, [Read more here](#).

**Oklahoma Corporation Commission Oil and Gas Proposed Rulemaking – Oklahoma.** On September 24, the Oklahoma Corporation Commission (OCC) proposed two rulemakings amending Chapter 5 Rules of Practice for the OCC and amending Chapter 10 regarding Oil and Gas Conservation. [Access the Chapter 5 proposed rulemaking here](#). The OCC has also provided multiple dates and access information for technical conferences, hearings, and public comment deadlines. [Access that OCC notice here](#). The Chapter 10 proposed rulemaking provides definitions for disposal wells, producing leases, and production, among other provisions. [Access the](#)



[Chapter 10 proposed rulemaking here](#). The OCC has also provided multiple dates and access information for technical conferences, hearings, and public comment deadlines. [Access that OCC notice here](#).

**Texas Commission on Environmental Quality Emissions Standards Rulemaking – Texas.** The Texas Commission on Environmental Quality (TCEQ) has announced upcoming public stakeholder meetings for forthcoming rulemaking for U.S. Environmental Protection Agency (EPA) “emission guidelines for existing crude oil and natural gas facilities and published updated New Source Performance Standards (NSPS) for new and modified crude oil and natural gas facilities” [...] for which states “are required to prepare and submit state plans to implement federal [Clean Air Act Section 111\(d\)](#) emission guidelines adopted by EPA.” The proposed rulemaking is expected to be published by TCEQ in August 2025. According to the TCEQ, the rulemaking is to “ensure that the State of Texas maintains the authority to regulate these sources.” The TCEQ stakeholder meetings – which are open to the public – will be held on November 6, 14, and 20, 2024. For stakeholders wishing to ask questions at the meetings, registration is required by TCEQ with a deadline date of November 4, 2024. [Read more](#).

## **STATE – Judicial**

**Leasing; Post-Production Costs – Ohio.** On September 11, in *EAP Ohio, LLC v. Sunnydale Farms, LLC* (Case Nos. 24 CA 0974, 24 CA 0975), the Ohio Court of Appeals, Seventh District, addressed a dispute involving the interpretation of the royalty provision in the parties' oil and gas lease agreements, and specifically post-production cost deductions from royalties. Here, the court determined that there were genuine issues of material fact regarding those lease terms and their meaning that required the case to be sent back to the trial court for further determinations. The court held that “the trial court erred by weighing competing definitions of the words ‘transportation’ and ‘gathering’ when addressing summary judgment. The court also erred to the extent it considered custom and usage evidence or testimony in its analysis and by

considering the testimony in an effort to understand technical terms.” Further, the court held that the “lease language is ambiguous” and “genuine issues of material fact exist regarding the meaning of the lease term transportation and whether it encompasses gathering and fuel costs associated with or incurred during gathering.” Additionally, the court concluded “that it is unclear based on a plain reading of the oil royalty provision whether Appellee [leaseholder and operator] was permitted to deduct its trucking expenses.” [Read more](#).

## **INDUSTRY NEWS FLASH**

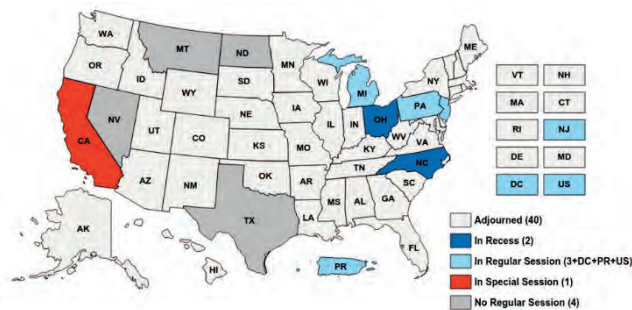
► **Biden administration funds \$1.5 billion in electric power projects including a connection to the Texas power grid.** On October 3, the Biden administration announced it “is putting \$1.5 billion toward four electric power projects, including a connection to the Southeast for Texas’s isolated grid.” According to the U.S. Department of Energy, “The four projects are expected to improve grid reliability and improve energy access.” Importantly, “One of the projects will, for the first time, connect the isolated Texas power grid with power markets in the southeastern U.S. That grid’s lack of connection came into focus after 2021’s Winter Storm Uri, which caused severe power outages and ultimately killed hundreds of people.” [Read more](#).

► **Colorado Oil and Gas Association head steps down.** On September 27, Dan Haley, CEO and President of the Colorado Oil and Gas Association, announced his resignation after more than 9 years at the association. Haley said he will step down later this year or early next year. Haley told reporters that the industry has become more highly regulated in Colorado and “it is more difficult for small operators to navigate the rules.” And now “We have fewer upstream producers in Colorado than we did when I started. Those companies need to scale in order to meet that high threshold set by those regulations.” [Read more](#).

► **U.S. oil demand hits highest seasonal level since 2019.** On September 30, *Reuters* reported that “U.S. oil demand rose in July to the highest seasonal level since 2019 while output declined for the second time in three months, data from the U.S. Energy Information Administration showed.” According to the data, “Total oil consumption rose 1.2% from June to 20.48 million barrels per day in July, the highest for that month since 2019.” [Read more.](#)

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes:** Michigan and Pennsylvania are in regular session. The U.S. Congress is in regular session.

Ohio is in recess until November 13.

North Carolina passed an [adjournment resolution](#) that calls for the regular session to reconvene periodically through December. The legislature adjourned a session on October 9 and is scheduled to reconvene on October 24.

California Democratic Gov. Gavin Newsom [called](#) the legislature into a special session immediately following its adjournment on August 31. According to the [Associated Press](#), Governor Newsom called the session to debate measures that would reduce gas prices. Newsom said the special session is necessary to “prevent price spikes next year and beyond.”

Louisiana Republican Gov. Jeff Landry announced that he will call a special session in November to consider

tax reforms. According to [Yahoo News](#), Governor Landry hopes to overhaul the state’s current tax system by reducing income tax and charging sales tax on more items. In explaining his plan, Landry said it would “provide an immediate increase in take-home pay for every Louisiana taxpayer.” If the legislature approves of the tax reforms, they would then need to be ratified by voters next March before becoming law.

The following states are currently holding interim committee hearings or studies: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [California House](#) and [Senate](#), [Colorado](#), [Connecticut](#), [Georgia](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maryland](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [New York Assembly](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#), [Oregon](#), [Rhode Island](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Texas House](#), [Utah](#), [Virginia](#), [Washington](#), [West Virginia](#) and [Wyoming](#).

The following states are currently posting 2025 bill drafts, pre-files and interim studies: [Alabama](#), [Florida](#), [Iowa](#), [Nebraska](#), [Nevada](#), [North Dakota](#), [Montana](#), [Oklahoma House](#) and [Senate](#) and [Utah](#). ■

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# GOVERNMENTAL AFFAIRS REPORT



**Following are key election results in the race for President and the U.S. Congress, as well as relevant governors' races, state legislature results, and ballot measures called at the time of this report.**

**Race for President:** Former President Donald J. Trump has been reelected as the 47th president, becoming only the second president in U.S. history to win non-consecutive terms. (President Grover Cleveland served two stints in the White House from 1885-1889 and 1893-1897.) At press, the former president racked up 312 electoral votes and also clinched the popular vote against his Democratic opponent Vice President Kamala Harris. While the vote totals are well below the 2020 presidential election, this is the first time since 2004 that a Republican candidate won both the electoral college and popular vote. Trump secured his victory in no small part by clinching vital battleground states such as Arizona, Georgia, Michigan, North Carolina, Pennsylvania, and Wisconsin. At press, Nevada was not yet called but appeared to be another pickup for the former president. Regarding AAPL, during the campaign Trump promised the “most aggressive regulatory reduction” in the country’s history if he’s reelected. See the following section, **Energy Policies in Play**, for more insights on what a second Trump presidency – and Republican control of Congress – could mean for both traditional energy and renewables. [Read more.](#)

**Key Governors Races:** Numerous races were held for governors in key energy-producing states. In North Dakota, Republican Congressman Kelly Armstrong won the gubernatorial election against State Sen. Merrill Piepkorn in an open seat race vacated by incumbent Republican Gov. Doug Burgum who was term limited. In Montana, incumbent Republican Gov. Gianforte defeated businessman and author Ryan Busse. In Utah, incumbent Republic Gov. Spencer Cox defeated state Rep. Brian King. In Missouri, Republican Lieutenant Gov. Mike Kehoe defeated Crystal Quade, the outgoing state House Democratic minority leader. In Indiana, Republican U.S. Sen. Mike Braun defeated former Indiana Superintendent of Public Instruction Jennifer McCormick in an open seat race. Braun will replace Republican Gov. Eric Holcomb, who is term limited. In North Carolina, Democrat State Attorney General Josh Stein defeated the state’s lieutenant governor, Republican Mark Robinson in an open seat race. Democrat Gov. Roy Cooper was term limited. In West Virginia, Republican State Attorney General Patrick Morrissey defeated local politician Steve Williams in an open seat race to replace term limited Gov. Jim Justice (who won his race to take the open Senate seat held by Sen. Joe Manchin who did not seek reelection). [Read more.](#) For more, access a [State-by-State Governors Election Resource here.](#)

**U.S. Senate Races:** At the time of this report, Republicans have taken the majority in the U.S. Senate after flipping at least four seats to wrest control from the Democrats. In this election cycle, Democrats were protecting 23 Senate seats, more than double the number of Republicans who were defending 10 seats. [Read more.](#) To take the

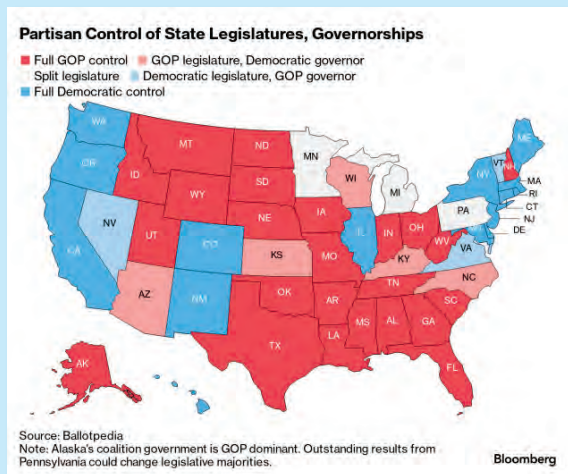


majority, Republicans flipped four seats in key oil and gas producing states, Montana, Ohio, Pennsylvania, and West Virginia. In Montana, Navy SEAL Tim Sheehy ousted three-term Democratic Sen. John Tester, who had become increasingly unpopular in recent years in the conservative red state. In Ohio, Republican businessman Bernie Moreno swept the seat in a surprise win, ousting influential Democratic incumbent Sen. Sherrod Brown, ending his 32-year career in the Senate and House. In a surprise upset in Pennsylvania, Republican David McCormick, a former hedge fund CEO, narrowly defeated three-term Democratic incumbent Sen. Bob Casey. In West Virginia, popular governor Jim Justice handily won the open seat vacated by Sen. Joe Manchin, a longtime Democrat, and recently an Independent, who chose not to seek reelection this year. In Texas, Republican incumbent Sen. Ted Cruz beat Democratic challenger Colin Allred by more than one million votes. In Arizona, Democratic Arizona Rep. Ruben Gallego, an Iraq War veteran, beat well-known former television news anchor Kari Lake in the open seat race after Independent (and former Democrat) Sen. Kyrsten Sinema did not seek reelection. In Nevada, incumbent two-term Democratic Sen. Jacky Rosen has defeated Republican Sam Brown, a retired Army captain. In Utah, Republicans held the seat vacated by Sen. Mitt Romney who did not seek reelection. In that race, Congressman John Curtis defeated his Democratic opponent Caroline Gleich by 30 points. In Wisconsin, Democratic incumbent Sen. Tammy Baldwin narrowly beat Republican challenger, businessman Eric Hovde. The following key Senate race was not yet called at the time of this report: In Michigan, Democratic U.S. Rep. Elissa Slotkin holds a slim lead and looks likely to edge out Republican former congressman Mike Rogers in the battle for an open seat vacated by Democratic Sen. Debbie Stabenow who opted not to seek re-election. [Read more.](#)

**U.S. House of Representatives Races:** At the time of this report, news outlets are projecting that Republicans should retain control of the House, although no official calls have yet been made as a number of races are still being tabulated. The latest numbers show the GOP with 211 seats, and 218 seats are needed for the majority. As reported by *Bloomberg*, House Speaker Mike Johnson (R-LA) is expecting to retain his position. In a letter to colleagues, Johnson “outlined his plans amid the Republican victory lap over strong performances that delivered the Senate and White House.” Johnson pointed to priorities in the next Congress that include immigration reform, tax incentives to bolster investments, and more favorable energy policies. Until then, Congress will be back in session to begin work on its lame duck agenda, which includes addressing the short-term government funding that’s set to expire. [Read more.](#)

**State Races:** As reported by the National Conference of State Legislatures, “What’s remarkable at this point is that, in terms of party control changes, it was yet another low-change cycle.” [Read more.](#) “Before the election, the GOP controlled 57 state legislative chambers, while Democrats controlled 41 (Nebraska’s unicameral legislature is nonpartisan).” As present, many legislative races are still too close to call, but there are some notable results coming in as follows. [Read more.](#) In Michigan, Republicans flipped the state House ending Democratic trifecta control over the legislature and governor’s office. [Read more.](#) In Pennsylvania, Democrats are trying to keep hold of a slim majority in the House. Republicans already hold the majority in the Senate. Also in Pennsylvania, York County District Attorney Dave Sunday, a Republican, defeated former state Auditor General Eugene DePasquale in the race for state attorney general. The race for the open seat, formerly controlled by Democratic Attorney General Michelle Henry, came after Henry did not seek reelection after being appointed to fill the last two years of now-Gov. Josh Shapiro’s term as attorney general.

[Read more.](#) At press, “Republicans were poised to expand their majority in the Texas House [...] and appeared on track to flip two seats in historically Democratic districts as South Texas.” This would give the GOP control of 87 of 150 seats in the Texas state House. [Read more.](#) Overall, Republicans picked up two new state House seats and a state Senate seat from Democrats, and overall, the legislature will welcome 26 new Republican lawmakers. [Read more.](#) In the race for the Texas Railroad Commission, incumbent Chairman Christi Craddick (R) “handily won reelection to a third term on the three-person commission, which oversees the state’s oil and gas industry,” as reported by the *Midland Reporter-Telegram*. [Read more.](#)



**Energy Policies in Play:** With the GOP takeover of the White House, U.S. Senate, and most likely retaining control of the U.S. House of Representatives, energy policy is expected to be front and center following Trump’s inauguration in January 2025. [Read more.](#) As widely reported, Trump and Republicans have campaigned on rolling back burdensome and costly climate, tax, and environmental regulations that have hamstrung the traditional energy industry throughout President Biden’s term. While we all await specific policies, industry stakeholders expect to see beneficial tax treatment for the oil and gas industry made part of a larger tax package Trump will be moving through Congress in his first year in office. President Trump

is also expected to immediately issue multiple executive orders rolling back many of President Biden’s policies to promote a pro-growth energy economy. And either through executive order, regulation or legislation, the industry can expect a Trump administration to lift many of the reporting and disclosure requirements imposed on oil and gas producers in recent years. [Read more.](#) Moreover, according to Rystad Energy’s chief economist and global director of market analysis, Claudio Galimberti, “A Trump administration could end up with more oil produced in the United States because they would, for instance, free up land for drilling’ on public lands, he said, adding that there could also be more fiscal incentives or lower fees for drilling.” [Read more.](#) The American Petroleum Institute President and Chief Executive Mike Sommers said, “Energy was on the ballot, and voters sent a clear signal that they want choices, not mandates, and an all-of-the-above approach that harnesses our nation’s resources and builds on the successes of his first term.” [Read more.](#)

**Key Ballot Measures:** In Louisiana, voters approved [Constitutional Amendment 1](#), which requires the federal revenue received from alternative and renewable energy production in the Outer Continental Shelf (OCS) to be deposited in the Coastal Protection and Restoration Fund. [Read more.](#) In New Mexico, voters approved Bond Question 3, to authorize the issuance of “\$230 million in bonds for public higher education institutions, special public schools and tribal schools.” [Read more.](#) North Dakota voters rejected Measure 4 that would have eliminated state and local property taxes. [Read more.](#) In South Dakota, voters rejected [Referred Law 21](#), that would have authorized “counties to impose, for any tax year in which the pipeline operator receives a tax credit, a \$1.00 per foot surcharge on carbon dioxide pipelines.” Further, the law would have also imposed “certain requirements on carbon dioxide pipelines: pipelines must be installed to a minimum depth; each pipeline operator is responsible for damages to drain tile, and to the surface owner,

caused by the pipeline; each operator is also responsible for leaks or failures of the pipeline; and any land agent acting on behalf of the pipeline must be a pipeline employee, State resident, or State licensed real estate agent. The Act also includes requirements that carbon pipeline easements be in writing, and only enforceable for a specified period of time; pipeline operators must initiate business operations within five years of the easement; and each easement is void after five years of nonuse.” The law also would have established a Landowner Bill of Rights. [Read more](#). The ballot measure encompassed state [Senate Bill 201](#) that was enacted in March 2024 but opponents gathered “more than 31,000 petition signatures to refer it to voters.” [Read more](#). In Washington state, voters approved [Initiative 2066](#), a measure that restricts local governments, and the state’s energy code, from prohibiting, penalizing, or discouraging the use of gas. It would prevent the Washington Utilities and Transportation Commission from incentivizing a gas company or large combination utility to terminate natural gas service to customers or authorizing a gas company or large combination utility to require a customer to involuntarily switch fuel use either by restricting access to natural gas service or by implementing planning requirements that would make access to natural gas service cost-prohibitive. However, Washington state voters rejected a ballot measure, [Initiative 2117](#), that would have repealed the state’s 2021 law, known as the Climate Commitment Act, “which established the state’s cap and invest program to reduce greenhouse gas emissions.” The measure also would have barred “state agencies from imposing any type of program involving the trading of carbon tax credits.” As reported by the *Washington State Standard*, “The Climate Commitment Act is arguably the state’s most ambitious policy for curbing greenhouse gas emissions by putting a price on pollution. The law sets annual emission limits for major emitters, such as oil refiners and utilities, and requires them to buy allowances at state auctions for each metric ton of their air pollution. Over time, the limits are lowered to compel polluters to curb their emissions. The

program started on Jan. 1, 2023, and the first emissions allowance auction was held on Feb. 28, 2023.” A third Washington state ballot measure, [Initiative 2109](#), failed to pass and would have repealed the 7% capital gains tax for individuals with annual gains of more than \$250,000. [Read more](#).

For a deeper look at a state-by-state survey of the 2024 ballot initiatives, see the [AAPL Ballot Measures Report here](#).

Please note, the above election roundup is just the beginning of ongoing member-exclusive content we will be providing AAPL members in the coming weeks and months as key races are called and legislative and regulatory policies begin to take shape. Stay tuned!

For more election data and analysis, see the [AAPL 2024 Election Results Report here](#).

## **FEDERAL – Regulatory**

### **BLM Coastal Plain Oil and Gas Program – Alaska.**

On November 6, the Bureau of Land Management (BLM) and the U.S. Fish and Wildlife Service (FWS) announced the release of their “final [Coastal Plain Oil and Gas Leasing Program Supplemental Environmental Impact Statement](#) (SEIS), which analyzed a lease sale mandated by Congress in the Tax Cuts and Jobs Act of 2017 (Tax Act) for the nearly 1.6-million-acre Coastal Plain of the Arctic National Wildlife Refuge.” (See [89 Fed. Reg. 88805](#)) “The agencies consulted with Alaska Native Tribes and Corporations and engaged with a wide variety of other stakeholders to develop the analysis, using the best available data and science, and identified a preferred alternative in the SEIS that avoids sensitive polar bear dens.” As noted by the BLM, “Of the nine leases sold during the previous Administration’s sale, two were canceled and refunded at the request of the lessees and the remaining seven were cancelled by Secretary Haaland due to the multiple legal deficiencies

in the underlying record. There are currently no existing leases in the Coastal Plain.” Per the announcement, “The final SEIS identifies the lands available for lease and the terms and conditions to be applied to leases and authorizations under this program. The next steps in this process will be the issuance of a Record of Decision no less than 30 days after notice of the SEIS is published in the Federal Register, and the offering of a second lease sale. Any permits or authorizations for specific on-the-ground activities on lands obtained through the lease sale would require additional review through the NEPA process.” [Read more.](#)

**BLM Sage-Grouse Land Use Amendments.** On November 8, the BLM announced a Proposed Resource Management Plan Amendment and Final Environmental Impact Statement Availability regarding Sage-Grouse Land Use Plan Amendments. According to the BLM, the agency “is amending specific greater sage-grouse goals, objectives and management from previous planning efforts in 77 resource management plans across ten western states (California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, and Wyoming). These changes are to enhance greater sage-grouse conservation through management of sagebrush habitats on BLM-managed lands. This effort builds on the 2015 and 2019 greater sage-grouse planning efforts and is focused on changing those actions and decisions for which additional scientific information has emerged, or which will enhance conservation while allowing for continued multiple use on BLM-managed lands.” [Read more.](#) However, as reported by *Bloomberg*, “It’s unclear whether the BLM will follow through on its plan to issue a final decision and what its fate will be after the Trump administration takes office in January.”

## **FEDERAL – Judicial**

**Electricity Transmission Lines – Texas.** On October 28, a federal court in Texas ruled that a “Texas law that restricts the building and operation of new transmission lines to companies already running such facilities in the state unconstitutionally discriminates against out-of-state energy providers.” In [NextEra Energy Capital Holdings, Inc. v. Jackson](#) (Case No. 1:19-cv-00626-RP), the U.S.

District Court for the Western District of Texas (Austin) held in favor of out-of-state power companies in finding that a 2019 Texas state law, [SB 1938](#), “violated the U.S. Constitution’s Commerce Clause by interfering with interstate commerce.” As reported by *Reuters*, “That law had restricted the ability of power companies that did not own transmission facilities in Texas from obtaining approval from the Public Utility Commission of Texas to build lines that would be part of multistate electricity grids. Before the law’s enactment the commission had declared that utilities without any presence in the state could construct transmission lines in territory covered by two regional electric grid operators that cover areas inside and outside of Texas.” [Read more.](#) The court concluded “that SB 1938 does not advance a legitimate local purpose that cannot be adequately served by reasonable nondiscriminatory alternatives.” The court added that “No other state completely bars out-of-state entrants or allows an incumbent to designate its replacement if it declines a project.” The ruling does not strike down all of SB 1938, but rather the section “that gives state utilities the ‘right of first refusal’ for building new electrical transmission lines.” [Read more.](#)

## **STATE – Legislative**

### **State Royalty Rate Increases – New Mexico.**

On October 28, Greg Bloom, Assistant Commissioner of Mineral Resources in the New Mexico State Land Office, appeared before the New Mexico Legislature’s Water & Natural Resources Committee interim meeting calling for an increase in oil and gas royalty rates. [Access Bloom’s presentation to the committee here.](#) Specifically, Bloom said that “In the 2025 legislative session the State Land Office will seek to increase its maximum-allowable royalty rate on new oil and gas leases from 20% to 25%.” Further, the proposal will not affect existing leases and echoing State Land Commissioner Stephanie Garcia Richard, said the 25% rate will not apply to all leases, only “the best tracts.” This will be the fourth attempt in recent years to press the legislature to pass the royalty change, which has been unsuccessful each time. As reported by the *Sante Fe New Mexican*, Bloom called the current rate “antiquated,” and “is falling behind the rates on state and private land in Texas as well as private land rates in



New Mexico.” And “Increasing rates for the best tracts is anticipated to increase state revenues by a billion dollars in a 25-year period, including providing additional millions for the State Land Office and the Legislative Finance Committee and adding between \$1.5 billion and \$2 billion to the Land Grant Permanent Fund — which helps fund education needs — by 2050.” But as the reporting notes, “Currently, about 99% of the land likely to include high-value tracts has already been leased.” [Read more.](#)

**Oil and Gas Setback Study – New Mexico.** As reported by *Reuters* on October 25, “A top economist for the state of New Mexico, the second-largest oil-producer in the U.S., this week released a study on potential drilling restrictions that could hit up to 5.4% of its future crude output and result in billions of dollars in lost revenue. The study evaluated setback proposals from the 2024 legislative session, which would restrict how close operators can drill to certain structures and environmental areas. They are intended to protect the public from oil and gas pollution.” [Read more about the study here.](#) The study, which was prepared for the [New Mexico Legislative Finance Committee](#), has been criticized by industry groups opposed to setback measures. “A statewide setback would not accomplish increased mitigation of human health effects from oil and gas production, but it would be a detriment to the continued development of oil and gas resources and, ultimately, the State of New Mexico,” said Missi Currier, chief executive officer of the New Mexico Oil & Gas Association. [Read more.](#)

**For all 600+ bills AAPL is currently monitoring and tracking for members, please see the continuously updated member-exclusive AAPL Governmental Affairs Bill Tracking Summary spreadsheet,** available through the AAPLConnect LANDNEWS and Governmental Affairs Network member forums [here](#) or on the AAPL website [here](#).

## **STATE – Regulatory**

**RRC Digital Oil and Gas Records – Texas.** On October 29, the Texas Railroad Commission (RRC) announced that with “more than 15 million records

digitized in the past year, the Railroad Commission of Texas now has 83.4 million oil and gas records that can be searched and viewed online from anywhere in the world.” According to Danny Sorrells, RRC Deputy Executive Director, “Putting millions and millions of oil and gas records online is a win-win for the public and the agency. Not only does it give the public easy access to historical information dating back almost 100 years, but our staff can now devote the time they would have spent tracking those records for the public for other tasks at the agency.” [Read more.](#)

## **STATE – Judicial**

### **Partition by Sale; Mineral Interests – Texas.**

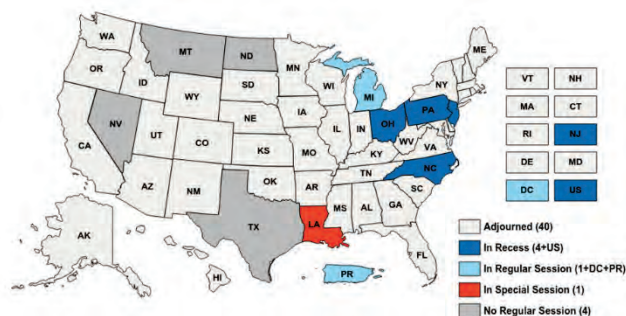
Recently, in [Warren v. Thornberry](#) (Case No. 10-22-00266-CV), the Texas Tenth Court of Appeals reversed a trial court order granting a partition in kind regarding certain property in Walker County because the parties seeking the partition failed to include a mineral interest owner. The court noted that under Texas law, “If any owner is not joined in the case, the trial court’s judgment will be reversed, even if no objection was made, because the judgment is not only unenforceable against that owner, it is unenforceable as to all other owners as well.” [Read more.](#)

## **INDUSTRY NEWS FLASH**

► **OPEC+ extends oil production cuts through the end of 2024.** On November 4, OPEC+ nations agreed to extend oil production cuts through the end of 2024. As reported by *The Hill*, “Though the cartel did not identify a reason for the extension, the cuts are widely viewed as an effort by the bloc to shore up the market amid a period of increased supply and weaker demand.” For background, “OPEC previously announced in June that the cuts would be extended through September with a plan to gradually return to previous output levels by next September.” [Read more.](#)

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes:** Michigan is in regular session.

The following are in recess until the dates provided:  
**Pennsylvania** and **U.S. Congress** (November 12),  
**Ohio** (November 13).

**North Carolina** passed an [adjournment resolution](#) that calls for the regular session to reconvene periodically through December. The legislature is scheduled to next convene on November 19.

**Louisiana** began a special session on November 6 that is focused on tax reform. According to the [Associated Press](#), Republican Gov. Jeff Landry is encouraging lawmakers to pass a tax reform package and update the tax structure that he claims will allow the state to be more economically competitive.

The following states are currently holding interim committee hearings or studies: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [California House](#) and [Senate](#), [Colorado](#), [Connecticut](#), [Georgia](#), [Hawaii](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [New York Assembly](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#), [Oregon](#), [Rhode Island](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Texas House](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#) and [Wyoming](#).

The following states are currently posting 2025 bill drafts, pre-files and interim studies: [Alabama](#), [Florida](#), [Iowa](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#), [Utah](#) and [Virginia](#). ■

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# GOVERNMENTAL AFFAIRS REPORT

## AAPL 2024 ELECTION UPDATE

**As an update to the Election Results Roundup special section in the November 11, 2024 Governmental Affairs Report, there have been a number of breaking developments since then, as follows.**

**The U.S. House of Representatives** has been called in favor of the Republicans, with the GOP retaining their majority. This means for the first time since the 2016 election, Republicans will hold a trifecta in Washington – both houses of Congress and the White House under President-elect Trump.

**President-elect Trump has selected** former New York Congressman Lee Zeldin to head the U.S. Environmental Protection Agency. Zeldin is expected to roll back many of the overreaching environmental regulations affecting the oil and gas industry.

**President-elect Trump has selected** North Dakota Gov. Doug Burgum to be Interior Secretary. As widely reported, Burgum is expected to play a key role in supporting Trump's agenda to increase oil, gas and coal production on public lands. This will include rolling back many of the restrictive BLM policies put in place under the Biden administration. Trump also named Burgum as Chairman of a newly formed National Energy Council, that according to the President-elect will include “all Departments and Agencies involved in the permitting, production, generation, distribution, regulation, [and] transportation, of ALL forms of American Energy.”  
[Read more.](#)

**President-elect Trump has selected** Chris Wright to be Secretary of the U.S. Department of Energy. As reported by *Reuters*, “oil and gas industry executive Chris Wright, a staunch defender of fossil fuel use,

would be his pick to lead the Department of Energy. Wright is the founder and CEO of Liberty Energy, an oilfield services firm based in Denver. He is expected to support Trump's plan to maximize production of oil and gas and to seek ways to boost generation of electricity, demand for which is rising for the first time in decades.”  
[Read more.](#)

**As reported by *The Hill***, Utah Republican Sen. Mike Lee will lead the Senate Energy and Natural Resources Committee next year. “The Energy and Natural Resources Committee has jurisdiction over the Energy and Interior departments and a range of issues related to energy, conservation and public lands.” Lee has long-been a proponent of increased domestic energy exploration and development. [Read more.](#)

**On November 21, U.S. Securities & Exchange Commission Chairman** Gary Gensler announced his resignation effective January 20, 2025. This is a big win for the oil and gas industry (and those involved in bitcoin mining operations) as Gensler was antagonistic to crypto mining and pushed a first-ever climate disclosure rule – currently stayed from taking effect as a result of legal challenges – that would have required onerous reporting and impose financial burdens on publicly-traded companies to report their greenhouse gas emissions, climate-related risks, and even overly intrusive corporate governance disclosures related to how companies manage climate risks. With Gensler's exit, and a pro-business and Bitcoin-supporting Trump administration taking the reins, the rule and restrictions on oil and gas industry involvement in bitcoin mining, will likely be reversed. [Read more.](#)

**You may also access a *Law360* fact sheet of expected energy policies under the next Trump Administration.** [Read more.](#)

## **FEDERAL – Legislative**

**H.R. 10139 – American Renewable Energy Act of 2024.** On November 15, Rep. Yvette Clarke (D-NY) introduced H.R. 10139, known as the American Renewable Energy Act of 2024. Democrats have introduced the same legislation in recent years but those bills never advanced. H.R. 10139 would “require U.S. electricity providers to garner nearly three-quarters of their generation from renewable energy by the 2030s.” Specifically, the bill specifies that retail electricity providers are to make renewables be 20 percent of their power generation in 2025, and slowly ramp up that percentage each year until reaching 70 percent by 2034. The bill is likely to fail in the upcoming Republican-controlled Congress. [Read more.](#)

**S. 5306 – Targeting Environmental and Climate Recklessness Act of 2024.** On November 13, Sen. Ed Markey (D-MA) introduced [S. 5306](#), known as the Targeting Environmental and Climate Recklessness Act of 2024. The bill would “restrict access to the U.S. financial system for those individuals and companies most responsible for exacerbating climate change and deforestation.” According to House bill supporter, Rep. Veronica Escobar (D-TX), “As the Biden administration and Congress continue pushing progress at home, it is imperative that we also ensure we have strong foreign policy tools to hold accountable bad foreign actors who engage in reckless behaviors that exacerbate this existential threat.” While the bill is aimed at targeting foreign, not domestic, companies, it is unlikely to advance in the upcoming Republican-controlled Congress. [Read more.](#)

## **FEDERAL – Regulatory**

**BLM Oil and Gas Measurement Regulations Clarifications.** On November 14, the Bureau of Land Management (BLM) published a proposed notice to lessees, *Clarifying the Implementation of Certain BLM Oil and Gas Measurement Regulations* ([89 Fed. Reg. 90037](#)), that is “clarifying when and how operators are expected to comply with certain requirements in the oil and gas measurement regulations, which became effective in January 2017.” Those BLM regulations relate

to Compliance with the Site Security, Measurement of Oil, and Measurement of Gas. The public comment period is open through December 16, 2024. [Read more.](#)

### **BLM Greater Sage-Grouse Rangewide Planning.**

On November 15, the BLM published a *Notice of Availability of the Proposed Resource Management Plan Amendment and Final Environmental Impact Statement for Greater Sage-Grouse Rangewide Planning* ([89 Fed. Reg. 90311](#)). The notice opens a 30-day protest period for the BLM’s Proposed Resource Management Plan Amendment (RMPA) and Final Environmental Impact Statement (EIS) for the Greater Sage-Grouse Rangewide Planning. As previously reported, “The RMPA would change goals, objectives, and management from previous planning efforts in 77 land use plans to enhance Greater Sage-Grouse (GRSG) conservation through management of sagebrush habitats on BLM-administered lands. The planning area includes portions of 10 Western states with GRSG habitat: California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, and Wyoming, and encompasses nearly 121 million acres of BLM-administered public lands.” [Read more.](#)

### **BLM Resource Management Plan – Nebraska;**

**Wyoming.** On November 15, the BLM published a *Notice of Availability of the Draft Resource Management Plan and Environmental Impact Statement for the Newcastle Field Office, Wyoming, and Nebraska Planning Area* ([89 Fed. Reg. 90309](#)). Per the notice, the BLM has “prepared a Draft Resource Management Plan (RMP) and Draft Environmental Impact Statement (EIS) for the Newcastle Field Office and Nebraska Resource Management Plans (Newcastle and Nebraska RMPs) and by this notice is announcing the opening of the comment period on the Draft RMP/EIS and the BLM’s proposed areas of critical environmental concern.” And “[t]he planning area includes Crook, Weston, and Niobrara Counties in Wyoming and all counties in Nebraska, and encompasses approximately 287,900 acres of surface public lands and 1,738,900 acres of Federal mineral estate in Wyoming, and approximately 5,100 acres of surface public lands and 223,900 acres of Federal mineral estate in Nebraska.” The notice opens a 90-day comment period. [Read more.](#)



**BLM Mineral & Land Records System.** On November 20, the BLM announced that it has been on a nearly four-year journey since 2021 “to establish a single, nationally integrated online mineral and land records system, MLRS, for BLM staff and customers. On October 15, 2024, the BLM launched its final major MLRS release, Release 4, that incorporates all remaining Alaska cases into the system.” The MLRS “has replaced and integrated many legacy BLM systems (e.g., LR2000, Alaska’s ACRES/ALIS, LRAM, CSRC) to more efficiently manage resources and cases across a range of BLM actions and business processes. These include mining claims, fluid minerals, geothermal energy, land tenure, solid minerals, land use authorizations, realty billing, and other case types.” [Read more about the MLRS here.](#) Further, “Following this latest release, the BLM will continue delivering periodic MLRS updates to further improve system functionality and user experience.” [Read more.](#)

**BLM Waste Prevention, Production Subject to Royalties, and Resource Conservation Rule Update.**

On November 22, the BLM published an update to their April 2024 Waste Prevention, Production Subject to Royalties, and Resource Conservation rule ([89 FR 25378](#)) due to technical errors the BLM made that are being corrected. According to the BLM, “This rule merely corrects inadvertent errors that would otherwise cause unnecessary confusion for the operators attempting to comply with the reporting requirements of the Waste Prevention rule, but does not impose new requirements. None of the changes are inconsistent with the BLM’s explanation of the Waste Prevention rule in its preamble. Therefore, the Department of the Interior has determined that it is appropriate for this rule to go into effect at the close of a 30-day comment period unless BLM receives a significant adverse comment.” The public comment period is open through December 23, 2024. [Read more.](#)

**BLM Resource Management Plan – Alaska.** On November 22, the BLM published “the availability of the Record of Decision (ROD) and Approved Resource Management Plan (RMP) for the Central Yukon planning area of Alaska, located in Central and Northern Alaska.” According to the BLM, “The Approved RMP

provides a consolidated direction under one RMP to address land and resource use and development on BLM-managed public lands within the planning area. The Approved RMP and ROD set forth a comprehensive framework for future public land management actions in the Central Yukon region of Alaska. The planning area consists of about 55.7 million acres of land, including approximately 13.3 million acres of public lands administered by the BLM Central Yukon Field Office.” Although these planning documents may be revised or rescinded under the incoming Trump administration, the BLM says, “The Approved RMP will guide management of these public lands for the next 15 to 20 years for the benefit of current and future generations as part of the BLM’s multiple-use mission. This planning effort is updating management decisions for public land uses and resources, including subsistence resources, mineral exploration and development, and recreation.” [Read more.](#)

**Department of Energy Regional Clean Hydrogen Hubs Funding.** On November 20, the U.S. Department of Energy (DOE) announced “up to \$2.2 billion in award commitments for two Regional Clean Hydrogen Hubs (H2Hubs) that will help accelerate the commercial-scale deployment of low-cost, clean hydrogen—a valuable energy product that can be produced with zero or near-zero carbon emissions. The two awardees—Gulf Coast H2Hub and Midwest H2Hub—are critical pillars of DOE’s H2Hubs program, which was created by the Bipartisan Infrastructure Law to kickstart a national network of clean hydrogen producers, consumers, and connective infrastructure while supporting the production, storage, delivery, and end-use of clean hydrogen.” [Read more.](#) The DOE continues to provide funding opportunities for hydrogen hubs and carbon management, among other renewable energy programs. To access the DOE funding website, [Read more.](#)

**EPA Waste Emissions Charge Rule.** To follow up our prior reporting throughout the year, on November 12, the U.S. Environmental Protection Agency (EPA) announced the release of their “final rule to reduce methane emissions from the oil and gas sector. The rule facilitates implementation of Congress’s directive in the Inflation Reduction Act to collect a Waste Emissions

Charge to better ensure valuable natural gas reaches the market rather than polluting the air. Congress established the charge on large emitters of methane if their emissions exceed specific performance levels and directed EPA to collect the charge and implement other features of the program, including providing appropriate exemptions for actions that reduce methane releases.” [Read more](#). Further, “As directed by Congress, the Waste Emissions Charge applies only to waste emissions from high-emitting oil and gas facilities. The Inflation Reduction Act provides that the Waste Emissions Charge applies to methane from certain oil and gas facilities that report emissions of more than 25,000 metric tons of carbon dioxide equivalent per year to the Greenhouse Gas Reporting Program, beginning with methane emissions reported in calendar year 2024. Also, as directed by Congress, the Waste Emissions Charge starts at \$900 per metric ton of wasteful emissions in CY 2024, increasing to \$1,200 for CY 2025, and \$1,500 for CY 2026 and beyond, and only applies to emissions that exceed statutorily specified methane intensity levels.” [Read more](#). The EPA also announced it will hold a Virtual Technical Webinar for the public on December 12 to further explain the rule and its implementation. [Read more](#). However, as reported by *CBS News*, the rule may be short-lived, as “Trump is likely to target the methane fee amid a flurry of expected actions he has promised to deregulate the oil and gas industry.” [Read more](#).

**Interior Department Energy Revenue.** On November 8, the U.S. Department of the Interior’s Office of Natural Resources Revenue (ONRR) “announced the disbursement of \$16.45 billion in revenues generated in fiscal year 2024 from energy production on federal and Tribal onshore lands, and federal offshore areas.” According to the announcement, “ONRR also disbursed \$4.29 billion in fiscal year 2024 funds to 33 states. This revenue was collected from oil, gas, renewable energy, and mineral production on federal lands within the states’ borders and offshore oil and gas tracts in federal waters adjacent to four Gulf of Mexico states’ shores.” Moreover, “This year’s overall disbursement is the fourth largest since 1982, with three of the four highest years occurring in the past four years.” Leading the way in revenue generated was New Mexico with the

highest level of disbursements at \$2.88 billion. Wyoming and Louisiana rounded out the top three. [Read more](#).

## **FEDERAL – Judicial**

### **U.S. Department of Labor Overtime Rule – Texas.**

To follow up our prior reporting, on November 15, the U.S. District Court for the Eastern District of Texas issued a nationwide injunction in [Texas v. U.S. Dept. of Labor](#) (Case No. 4:24-CV-499-SDJ) “to block the new U.S. Department of Labor (DOL) overtime rule that would have expanded overtime eligibility for millions of employees. Unlike the limited preliminary injunction issued by the same court on June 28, 2024, this decision applies to all employers throughout the United States. The rule’s increased minimum salary thresholds for Fair Labor Standards Act (FLSA) overtime exemptions will no longer be implemented on January 1, 2025, as had been anticipated; the rule’s prior salary level increases that had taken effect on July 1, 2024, have also now been vacated.” [Read the DOL rule press release here](#). The case was brought by the state of Texas challenging the DOL’s statutory authority to issue such a rule. For background, the DOL released the rule raising the minimum salary level for an employee to qualify as exempt from the FLSA’s overtime requirements in April 2024. [Access the DOL rule here](#). That “rule boosted the minimum salary level from \$684 per week (\$35,568 annually) to \$844 per week (\$43,888 annually) on July 1, 2024; it was set to then increase that level again to \$1,128 per week (\$58,656 annually) on January 1, 2025. The rule also impacted the highly compensated employee exemption by increasing its total annual compensation requirement from the current level of \$107,432 to \$132,964 on July 1, 2024 with plans to raise it again to \$151,164 on January 1, 2025.” [Read more](#). As reported by law firm Thompson Hine, “It remains to be seen whether the DOL will file an appeal with the Fifth Circuit. However, if it were to appeal, it seems likely that the incoming Trump administration would withdraw the appeal, leaving the ruling intact.” [Read more](#). For further analysis, you may access additional legal articles [here](#), [here](#) and [here](#).

### **Leasing; Surface Use Agreements – Pennsylvania.**

Recently, in *Pirl v. Equinor U.S. Onshore Properties*

*Inc.* (Case No. 2:22-cv-3854), a federal court in Pennsylvania dismissed a landowner action against Equinor regarding a dispute over a surface use agreement and the use of the surface for a cattle business. The court found that “under the four corners of the Agreement, Equinor is never required to pay, confer with, notify, seek permission from, consider, or otherwise interact with the owner of a cattle business.” In sum, the court held that “The plain language of the SUA reveals that the Pirls granted, conveyed, and assigned Equinor rights to build and operate on 146.063 acres of their property. Equinor paid for the right to use 14.6 acres of that property. The inclusion of, and the parties’ agreement to, the phrase ‘for informational purposes only’ reveals intent that the depictions and descriptions in Exhibit A [outlining the construction site with a 14.6-acre limit of disturbance] were meant to be educational rather than legally binding.” [Read more.](#)

## **STATE – Legislative**

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## **STATE – Regulatory**

### **Low Carbon Fuel Standard Rulemaking – California.**

On November 8, the California Air Resources Board (CARB) “approved updates to the Low Carbon Fuel Standard (LCFS) that channel global, national and local private sector investment towards increasing cleaner fuel and transportation options for consumers, accelerating the deployment of zero-emission infrastructure, and keeping the state on track to meet legislatively mandated air quality and climate targets.” According to CARB, “LCFS reduces air pollution and greenhouse gas emissions by setting a declining carbon intensity target for transportation fuels used in California; producers that don’t meet established benchmarks buy credits from those that do.” [For more background on the rulemaking read more here.](#)

As reported by *The Hill*, these latest amendments to the LCFS focus on “increasing the stringency of the program to more aggressively decarbonize fuels.”

[Read more.](#)

## **STATE – Judicial**

### **Marketable Title Act; Royalty Reservations – Ohio.**

On October 18, in *RL Clark, L.L.C. v. Hammond* (Case No. 2024-Ohio-5051), the Ohio Court of Appeals, Seventh District, addressed a dispute involving the effect of the Marketable Title Act (MTA) on a one-half royalty interest contained in a deed. For background, “The trial court determined that a 1956 deed was the root of title in this matter. The court examined whether a reference in that deed to prior royalty interests was general rather than specific, and whether the royalty interest was extinguished under the MTA.” The appellants contended that the reference to oil and gas reserved by prior grantors was specific enough to satisfy the test under existing law. However, here, the court held that the “Appellants are incorrect, and the trial court properly concluded that the reference to prior oil and gas royalties in the 1956 deed was merely general. Based on the holding in *Blackstone*, the general reference to a royalty interest does not preserve the interest unless the deed also contained specific identification of a prior recorded title transaction. There is no such specific identification in the 1956 deed. The 1902 royalty interest was extinguished under the MTA.” [Read more.](#)

### **Regional Greenhouse Gas Initiative – Virginia.**

On November 18, in [Association of Energy Conservation Professionals v. Virginia State Air Pollution Control Board](#) (Case No. CL23000173-00), a Virginia court ruled against Gov. Glenn Youngkin (R) holding his “administration cannot withdraw from an interstate carbon emission-capping compact without approval from the state Legislature.” For background, “Shortly after taking office in 2022, Youngkin announced plans to withdraw Virginia from the Regional Greenhouse Gas Initiative (RGGI), a multistate agreement the state General Assembly voted to enter under his Democratic predecessor, Ralph Northam. Youngkin argued the initiative, which

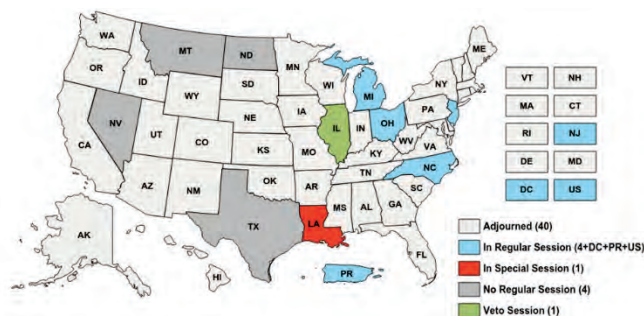
requires participants to buy allowances to offset their emissions, passed increased utility costs onto ratepayers.” The court concluded, “[T]he only body with the authority to repeal the RGGI regulation would be the General Assembly. This is because a statute, the RGGI Act, requires the RGGI regulation to exist.” [Read more.](#)

## INDUSTRY NEWS FLASH

► **API pens letter to President-elect Trump on energy policy.** On November 18, the American Petroleum Institute’s President and CEO Mike Sommers penned a letter to President-elect Trump outlining “critical factors for American energy success.” Key among them were increased onshore and offshore oil and gas production, federal permitting reform, and maintaining competitive tax policies. [Read more.](#) Further, both the API and IPAA have recently announced their energy priorities for the next administration. [Read more.](#)

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes:** Michigan and Ohio are in regular session. The U.S. Congress is in regular session.

Illinois is holding a veto session until November 21. In Illinois, a veto session is held after adjournment of a regular session when the General Assembly reconvenes to consider the Governor’s vetoes, if any.

North Carolina passed an [adjournment resolution](#) that calls for the regular session to reconvene periodically through December. The legislature reconvened for a one-day session on November 19 and is scheduled to convene again on December 2.

Pennsylvania adjourned on November 14 through the end of the year and will reconvene on January 7, 2025.

Louisiana began a special session on November 6 that is focused on tax reform.

California Democratic Gov. Gavin Newsom [called](#) a special session to begin December 2 to “safeguard California values and fundamental rights in the face of an incoming Trump administration.” According to the [Associated Press](#), Governor Newsom’s office said the state is ready to “Trump-proof” its laws. The special session will focus on safeguarding the state’s progressive policies and approving funding for the Department of Justice in preparation for potential lawsuits against the Trump administration’s policies.

The following states are currently holding interim committee hearings or studies: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [California House](#) and [Senate](#), [Colorado](#), [Connecticut](#), [Georgia](#), [Hawaii](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [New York Assembly](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#), [Oregon](#), [Rhode Island](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Texas House](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#) and [Wyoming](#).

The following states are currently posting 2025 bill drafts, pre-files and interim studies: [Alabama](#), [Florida](#), [Iowa](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire](#), [North Dakota](#), [Oklahoma](#), [Tennessee](#), [Texas](#), [Utah](#) and [Virginia](#). ■



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# GOVERNMENTAL AFFAIRS REPORT

## FEDERAL – REGULATORY

### **National Parks Service Rights of Way Permits**

**Final Rule.** On December 5, the National Parks Service (NPS) published a final rights of way rule. According to the NPS, the rule “revises regulations governing the application, processing, and issuance of right-of-way (ROW) permits for lands and waters administered by the NPS. A ROW permit authorizes the use of such lands and waters for the operation and maintenance of infrastructure associated with utilities such as fiber, water lines, power lines, and cellular antennas. The revisions align NPS processes more closely with those of other Department of the Interior (DOI) bureaus by allowing for a pre-application meeting, identifying a common standard application form, and broadening methods the NPS can use to determine fair market value. This rule clarifies the process for permitting construction related to a ROW permit, makes updates that reflect current technology and standard practices, and integrates applicable laws that have been implemented since the regulations were first promulgated in 1980.” The rule is effective January 6, 2025. [Read more.](#)

## FEDERAL – Judicial

**Leasing; Pooling Orders – Oklahoma.** Recently, in *Cory v. Oviniv USA, Inc.* (Case No. CIV-21-568-G), a federal court in Oklahoma ruled in favor of an oil and gas company lessee regarding a dispute over an alleged 160-acre spacing limitation contained in the lease's voluntary pooling clause and an Oklahoma Corporation Commission (OCC) order. Oviniv argued that “the 160-acre pooling restriction was ‘superseded’ by the OCC’s orders and creation of new units pursuant to the OCC’s ‘statutorily granted powers to prevent waste and protect correlative rights.’” In rejecting the plaintiff-lessor’s breach-of-contract claim, the court held that

prior court decisions “teach that the OCC’s regulatory authority, e.g., to space wells for the conservation of oil, gas, and other natural resources, is incorporated into private oil and gas leases by operation of law.” The court also rejected the plaintiff’s quiet title action regarding four gas wells drilled by the lessee on the leased property that had been plugged and abandoned and that an alleged improperly drilled well failed to perpetuate the lease. On this issue, the court held that the plaintiff failed to prove that the well was improperly drilled or establish that the well was not perpetuating the lease. [Read more.](#)

## STATE – Legislative

**For all 650+ bills AAPL is currently monitoring and tracking for members, please see the continuously updated member-exclusive AAPL Governmental Affairs Bill Tracking Summary spreadsheet,** available through the AAPLConnect LANDNEWS and Governmental Affairs Network member forums [here](#) or on the AAPL website [here](#).

## STATE – Regulatory

**Class II Injection Wells – California.** In October, the California regional administrator for the U.S. Environmental Protection Agency (EPA) responded to questions over California’s new legislation, [AB 3233](#), which authorizes local control “to limit or prohibit oil and gas operations or development in its jurisdiction.” That law takes effect January 1, 2025. The issue, raised by California congressman Vince Fong (R), is whether AB 3233 violates EPA regulations. In an EPA letter to Fong it states that “If the EPA determines that under AB 3233 local entities are promulgating ordinances or regulations that interfere with the State’s Class II UIC program,” the EPA will consult with state regulators. As noted by the California Independent

Petroleum Association, “The letter also emphasizes that while California currently complies with federal standards, the state must ensure that local measures under AB 3233 do not interfere with the approved UIC program. Any such interference could lead to federal oversight, highlighting potential gaps in the state’s adherence to established rules and collaboration with federal authorities.” [Read the EPA letter here.](#)

**Marginal Well Plugging Fee – Colorado.** The Colorado Orphan Wells Mitigation Enterprise Board has voted unanimously in favor of “a new annual fee of \$115 per oil and gas well in Colorado to pay for the plugging of marginal wells in the state.” [Read more from the Board here.](#) As reported by *The Daily Sentinel*, the action “is expected to generate \$5 million a year. There are about 47,000 active wells in the state, including about 12,000 in Garfield County alone and close to 1,200 in Mesa County. The action comes after the passage by the state Legislature earlier this year of a bill expanding the authority of the Orphan Wells Mitigation Enterprise program to include the plugging of marginal wells.” That legislation, [Senate Bill 24-229](#), “defines a marginal well as one that presents a high risk of becoming orphaned.” Jeff Robbins, Chair of the Orphan Wells Mitigation Enterprise Board, said, “The new Marginal Well Mitigation Fee adds to unprecedented funding — a total of \$29 million next fiscal year — to plug not only orphan wells but also marginal wells.” The fee is expected to go into effect in April 2025 but no specific date has yet been released by the Board. [Read more.](#)

**Air Quality Control Commission Regulatory Procedures – Colorado.** On November 22, the Colorado Air Quality Control Commission (AQCC) voted in favor of overhauling its regulatory procedural rules for the first time since 1998 “[i]n an effort to create more public participation in rulemaking and to improve transparency in the process.” As reported, “The new rules will extend from three months to four months the average time around most rulemakings, will restructure the way that parties to such hearings file motions and will attempt to define the scope of rulemakings more clearly from the start. They will become applicable in August, meaning that business

and environmental groups that interact frequently with the AQCC will see the first changes by February or March in preparation for hearings later in the year.” Additionally, “Under the new procedures, the Colorado Air Pollution Control Division will bolster its outreach process and work to unveil draft rules as early as two months before asking the AQCC to set a rulemaking hearing. That request will then set off a process in which groups affected by proposed rules file initial comments first, then responses and then a final set of statements that could include alternate proposals to the APCD’s suggested rules.” [Read more.](#)

#### **Ozone Precursor Rulemaking – Colorado.**

On November 22, the Colorado Air Quality Control Commission (AQCC) voted unanimously to “consider a proposal early next year for stricter rules on hazardous emissions from the oil and gas industry, as the state continues to struggle to rein in its long-running ozone pollution problem.” The Air Pollution Control Division, an arm of the Colorado Department of Public Health and Environment, recommended the proposal to make changes to the so-called [Regulation Number 7](#) ozone precursor rules. As reported, “The new rules would require the use of improved equipment for preventing and detecting leaks at thousands of oil and gas facilities across the state, with a particular focus on a nine-county region known as the Denver Metro/North Front Range Nonattainment Area, which has for decades been out of compliance with Environmental Protection Agency standards for ozone, a hazardous air pollutant.” The AQCC is expected to begin consideration of the proposal at its monthly hearing in February 2025. We will keep AAPL members updated once the process begins. [Read more.](#)

**Crypto Mining Facility Energy Use Registration – Texas.** On November 21, the Public Utility Commission and the Electric Reliability Council of Texas adopted a rule as required by 2023 state legislation, [SB 1929](#), requiring cryptocurrency mining facilities to register with state authorities. The rule “requires crypto mining facilities that consume more than 75 megawatts of power to tell the Public Utility Commission and the Electric Reliability Council of

Texas, which oversees the state's power grid, the facility's location, ownership and electricity demand." As reported by the *Texas Tribune*, "The rule was designed to help the state see how much electricity crypto facilities will consume and protect the grid's reliability." [Read more.](#)

## **STATE – Judicial**

**Inglewood Oil Field – California.** On November 25, Sentinel Peak, the owner and operator of the Inglewood Oil Field, sued the state of California over a recently enacted law requiring "all low-production wells in the Inglewood Oil Field to cease operations by March 2027 and all wells to be plugged by the end of 2030. Failure to meet those deadlines will result in a monthly \$10,000 penalty for every well in violation." The lawsuit, [Sentinel Peak Resources California LLC v. State of California](#) (Case No. 24STCV31066), claims that "by punishing the continued operation of lawfully permitted wells, [AB 2716](#) imposes mandatory, potentially limitless penalties that are grossly disproportional to the gravity of the offense that it is designed to punish. And by solely targeting a single operator for punishment, AB 2716 is an improper special statute and unconstitutional bill of attainder. Further, AB 2716 disregards Petitioner's vested rights to continue operation of lawfully permitted wells, and constitutes a taking of property rights without the payment of just compensation." Further, the complaint states that "The imposed penalties [...] have no relationship to any actual harm incurred by neighboring uses." As reported by the *Los Angeles Times*, "The law would effectively oversee the end of fossil fuel extraction in the Inglewood Oil Field, where drilling has occurred for a century. The 1,000-acre field — located in Culver City, Los Angeles' Baldwin Hills and unincorporated Ladera Heights — has approximately 820 unplugged wells, including 420 that are actively pumping oil. Roughly 80% of these operating wells are considered low-producing, meaning they yield less than 15 barrels of oil or 60,000 cubic feet of gas per day." [Read more.](#) For further analysis of the case, [Read more here](#) and [here](#).

**Mineral Servitudes – Louisiana.** Recently, in *Ganey v. Cupstid* (Case No. 55,798-CA), the Louisiana Court of Appeal, Second Circuit, addressed a dispute over whether a mineral servitude was extinguished by 10 years nonuse. The trial court found that the servitude was extinguished for 10 years of nonuse. The court noted, "When the prescription of nonuse is pleaded, the owner of the dominant estate has the burden of proving that he or some other person has made use of the servitude as appertaining to his estate during the period of time required for the accrual of the prescription." Further, the "burden of proof has been applied even when a surface owner sues to obtain the cancellation of a mineral servitude." Here, based on specific evidence, the appellate court upheld the trial court's findings, holding that the trial court did not err in finding that the servitude "had prescribed following 10 years of nonuse." [Read more.](#)

## **Ozone Emissions Regulations – New Mexico.**

On November 27, the New Mexico Court of Appeals affirmed a lower court ruling upholding the New Mexico Environmental Improvement Board's order adopting regulation of ozone precursor emissions in [Independent Petroleum Association of New Mexico v. New Mexico Environmental Improvement Board](#) (Case No. A-1-CA-40546). Regarding oil and gas operations, the rulemaking "added an additional quarterly monitoring requirement for emission sources within 1000 feet of an occupied area." As reported by *ABC News*, "the rule applies to eight counties — Chaves, Doña Ana, Eddy, Lea, Rio Arriba, Sandoval, San Juan and Valencia — where ozone pollutants have reached at least 95% of the federal ambient air quality standard. Some of those counties include production hot spots within the San Juan Basin in northwestern New Mexico and the Permian Basin, which straddles the New Mexico-Texas line." The Independent Petroleum Association of New Mexico brought the legal challenge arguing "in its appeal that the rule disproportionately affected independent operators." Here, the court concluded that the "added proximity requirement does not change the emission sources regulated or the way they are regulated. Instead, the change only increases the frequency with which certain sources already subject to defect



and leak monitoring are required to be monitored. Consequently, those affected by added proximity monitoring requirements could have reasonably expected that their interests could be affected. Further, the change does not alter the issues affected by the rule—the same emission sources are subject to the same monitoring. Only monitoring frequency is changed.” The court further held that “the effect of the final rule does not differ from the proposed rule. Both the proposed and final version monitor emission sources to identify leaking components and reduce leaking emissions. Therefore, we conclude that adoption of 15 20.2.50.116(C)(3)(e) NMAC and the accompanying definition of ‘occupied area’ did not exceed the scope of the Board’s noticed rulemaking or the attached proposed rule.” [Read more.](#)

#### **Post-Production Costs; Leasing – West Virginia.**

On November 14, the West Virginia Supreme Court addressed a dispute in [Romeo v. Antero Resources Corp.](#) (Case No. 23-589) over the deduction of post-production costs and how existing law applied. Here, the plaintiff/petitioner claimed, “Antero was prohibited from deducting postproduction costs from the gross sale proceeds of the gas in calculating the petitioners’ royalties.” In response, Antero’s position was that the relevant case law prohibits “such deductions only until the oil and gas reach the first available market, not the point of sale; that royalties aren’t payable on the byproducts of the gas produced from petitioners’ wells, i.e., the natural gas liquids (‘NGLs,’) and that even if royalties are payable on the NGLs, Antero is entitled to deduct the postproduction costs incurred in marketing these byproducts.” For background, “West Virginia follows the marketable product rule of cost allocation. Under the marketable product rule, the lessee impliedly warrants to bear the costs of getting gas into marketable condition and transporting it to market [...] West Virginia’s version of the marketable product rule, however, adopts the point of sale as opposed to the point where the gas reaches the market as the point to which the lessee is responsible for bearing post-production costs. Under the ‘point of sale’ approach, a lessor will not only receive a royalty valued upon the gas when the gas becomes marketable, but in addition, the lessor will receive a

royalty valued upon the gas in its processed state at the point of sale after the gas had value added to it solely at the lessee’s expense.” [Read more.](#) Here, the court held “that energy companies cannot deduct post-production costs without explicit lease language, favoring royalty owners over producer.” Writing for the majority, Justice William Wooton “took a strict view of when energy companies can deduct post-production costs” and “stressed the importance of adhering to state precedent” in reaching the majority opinion. Wooten cited precedential case law noting, “we decline to open the door to the chaos that may well ensue if we abruptly — and without any good reason — change decades of law upon which thousands of people have relied in ordering their economic affairs.” However, “Dissenting justices criticized the ruling as judicial overreach and a misapplication of prior cases, warning of potential legal and economic impacts.” [Read more.](#) For further legal analysis of the case, [Read more here](#) and [here](#).

#### **Royalties; Post-Production Costs; Leasing – West Virginia.**

On November 14, the West Virginia Supreme Court addressed whether there is “an implied duty to market for [oil and gas] leases containing an in-kind royalty provision” and do “the requirements for the deductions of post-production expenses [under case law] apply to leases containing an in-kind royalty provision?” In [Kaess v. BB Land LLC](#) (Case No. 23-522), the “West Virginia Supreme Court held that for oil and gas leases containing an in-kind royalty provision, there is an implied duty to market for oil and gas.” Further, pursuant to relevant case law precedent, those requirements “for the deductions of post-production expenses apply to leases containing an in-kind royalty provision.” As to the first question, the court explained, “If, for whatever reason, a royalty owner/lessor does not or cannot take physical possession of his or her share of the production under an in-kind royalty provision, then the producer/lessee may discharge its royalty obligation to the lessor in one of several ways: the lessee may deliver the lessor’s share of the production to a pipeline purchaser or other third-party purchaser near the wellhead, free of cost, and to the lessor’s credit, under the terms of a division order or other contract in which the purchaser

## INDUSTRY NEWS FLASH

## LEGISLATIVE SESSION OVERVIEW

Map of the United States showing the number of House members from each state in the 110th Congress. The map is color-coded: white for 40+ members, blue for 1 member, light blue for 2-4 members (DC+PR included), and grey for 0 members. A legend on the right explains the color coding.

VT	NH
MA	CT
RI	NJ
DE	MD
DC	US

Legend:

- Adjured (40)
- In Recess (1)
- In Regular Session (5+DC+PR+US)
- No Regular Session (4)

**Louisiana** concluded its special session on November 22 after passing tax cut legislation. According to [WAFB](#), the state legislature approved several tax bills, including reducing personal and corporate income taxes and doubling the standard tax deductions for seniors. The legislature also passed legislation to get rid of the corporate franchise tax. The bills will now head to the desk of Republican Gov. Jeff Landry for action.

The following states are currently holding interim committee hearings or studies: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [California House](#) and [Senate](#), [Colorado](#), [Connecticut](#), [Georgia](#), [Hawaii](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [New York Assembly](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#), [Oregon](#), [Rhode Island](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Texas House](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#) and [Wyoming](#).

The following states are currently posting 2025 bill drafts, pre-files and interim studies: [Alabama](#), [Arizona](#), [Arkansas](#), [Florida](#), [Iowa](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire](#), [North Dakota](#), [Oklahoma](#), [South Carolina](#), [Tennessee](#), [Texas](#), [Utah](#) and [Virginia](#). ■

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# GOVERNMENTAL AFFAIRS REPORT



**Please Note:** Governmental Affairs reports are not published during the holidays and will resume with the January 13, 2025 issue.

Wishing you a safe, merry, and joyous holiday season and a very happy new year!



## FEDERAL – Legislative

### **House Energy & Commerce Committee Chairman.**

On December 9, Rep. Brett Guthrie (R-KY) was selected by his colleagues as Chairman of the House Energy & Commerce Committee for the next Congress. Rep. Guthrie said, “I am humbled and excited to get to work next Congress to deliver on President Trump and House Republicans’ America First agenda. We must work together to restore America’s energy dominance and lower energy prices.” As reported by law firm Holland Hart, “Guthrie has identified streamlining permitting for energy infrastructure as one of his top priorities in the next Congress. Additionally, he plans to focus the committee’s attention on overturning key Biden administration environmental regulations.” [Read more.](#)

## FEDERAL – Regulatory

**BLM ANWR Oil and Gas Lease Sale – Alaska.** On December 9, the Bureau of Land Management (BLM) issued a [Notice of Sale](#) for a January 9, 2025 oil and gas lease sale in the Coastal Plain of the Arctic National Wildlife Refuge (ANWR) in Alaska. [Read the BLM press release here.](#) The BLM has also made available a Record of Decision and Supplemental Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program [available here](#) for the lease sale. (See also *Notice of Lease Sale and Notice of Availability of the Detailed Statement of Sale for the Coastal Plain 2025 Oil and Gas Lease Sale*; [89 Fed. Reg. 99270](#); *Notice of Availability of the Record of Decision for the*

*Final Supplemental Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program, Alaska*; [89 Fed. Reg. 101042](#)). As reported by the *Oil & Gas Journal*, the sale will allow bids “for oil and gas leases on 400,000 acres [...] the smallest amount of acreage required by Congress as part of the Tax Cuts and Jobs Act of 2017.” According to the BLM, “it opted for the least acreage because the plan ‘best balances’ the need to protect wildlife and the environment for development while meeting Congress’ lease mandate.” [Read more.](#)

### **BLM Resource Advisory Councils – Colorado.**

On December 18, the BLM published a *Notice of Joint and Individual Colorado Resource Advisory Council Meetings* ([89 Fed. Reg. 102938](#)). The notice announces multiple 2025 meeting dates for the Colorado Northwest Resource Advisory Council (RAC), Southwest RAC, and Rocky Mountain RAC. All meetings are open to the public. [Read more.](#)

### **BLM Resource Advisory Council – Missouri.**

On December 17, the BLM published a notice, *Public Meeting for the Missouri Basin Resource Advisory Council* ([89 Fed. Reg. 102162](#)). The meeting will be held virtually on January 16, 2025 and is open to the public. [Read more.](#)

**BLM Resource Advisory Council – Montana.** On December 13, the BLM published a *Call for Nominations to the Western Montana Resource Advisory Council* ([89 Fed. Reg. 101044](#)). According to the BLM, “The purpose of this notice is to request public nominations for the Bureau of Land Management’s (BLM) Western Montana Resource Advisory Council (RAC) to fill existing vacancies, as well as for member terms that are scheduled to expire. The RAC provides advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within the Western Montana District.” The deadline for



nominations is January 13, 2025. On the same day, the BLM announced a meeting notice for the Western Montana RAC. The meeting will be held virtually on January 14, 2025, and is open to the public.

[Read more.](#)

#### **BLM Resource Advisory Council – New Mexico.**

On December 16, the BLM published a *Notice of Public Meeting Northern New Mexico Resource Advisory Council, New Mexico* ([89 Fed. Reg. 101620](#)). As noted by the BLM, “The chartered 12-member Northern New Mexico RAC advises the Secretary of the Interior, through the BLM New Mexico State Director, about planning and management of public land resources located within the jurisdictional boundaries of the RAC.” The RAC will hold a field tour and meeting on January 16-17, 2025. The meeting will be held virtually online, and the meeting and field tour are open to the public.

[Read more.](#)

**BLM Land Withdrawal – New Mexico.** On December 16, the BLM published a *Notice of Proposed Withdrawal and Public Meeting, Upper Pecos River Watershed Protection Area Withdrawal, New Mexico* ([89 Fed. Reg. 101621](#)). According to the notice, “the Secretary of the Interior proposes to withdraw 163,483 acres of National Forest System lands and 1,327.16 acres of public lands from location and entry under the United States mining laws, and leasing under the mineral and geothermal leasing laws, subject to valid existing rights. The lands would remain open to disposals under the mineral materials laws.” The public comment period is open through March 17, 2025. [Read more.](#)

#### **BLM Resource Advisory Council – Wyoming.**

On December 17, the BLM published a notice, *Wyoming Resource Advisory Council Announces 2025 Meetings* ([89 Fed. Reg. 102161](#)). The notice provides Wyoming Resource Advisory Council (RAC) meeting dates for 2025. According to the BLM, “The 10-member RAC provides recommendations to the Secretary of the Interior, through the BLM, on a variety of public land challenges within the State of Wyoming.” All meetings are open to the public. [Read more.](#)

**Department of Energy LNG Exports Study.** On December 17, the U.S. Department of Energy (DOE) released an updated study of U.S. liquefied natural gas (LNG) exports. According to DOE Secretary Jennifer Granholm, “the Natural Gas Act has given the U.S. Secretary of Energy the responsibility to evaluate whether authorizations for the export of liquefied natural gas to non-free-trade-agreement countries is consistent with the ‘public interest.’ That determination includes a wide variety of factors including impact on American consumers, workers, and the environment. We have now finalized our update of various pieces of analysis for public comment.” [Read more.](#) According to the DOE, “This multi-volume study of U.S. LNG exports serves to provide an updated understanding of the potential effects of U.S. LNG exports on the domestic economy, U.S. households and consumers; communities that live near locations where natural gas is produced or exported; domestic and international energy security, including effects on U.S. trading partners; and the environment and climate.” [Read a detailed DOE summary of the study here.](#) Once the study is formally published in the Federal Register, the public will have 60 days to submit public comments. As of this report, the DOE has yet to publish the study in the Federal Register. [Read more.](#) Industry groups have already weighed in, with the American Petroleum Institute’s President and CEO Mike Sommers saying, “it’s time to lift the pause on new LNG export permits and restore American energy leadership around the world.” In a statement sent to *Rigzone* by the American Exploration & Production Council (AXPC), AXPC CEO Anne Bradbury said, “there is strong bipartisan support for U.S. LNG exports because study after study shows that they strengthen the American economy, shore up global security, and advance collective emissions reductions goals - all while U.S. natural gas prices remain affordable and stable from an abundant domestic supply of natural gas.” And American Energy Alliance President Thomas Pyle said the latest LNG exports analysis “fundamentally misrepresents the economic and environmental benefits of America’s global leadership in energy production.” [Read more.](#)

**EPA Class VI Injection Well Primacy; Carbon Capture and Sequestration – West Virginia.** On

November 27, the U.S. Environmental Protection Agency (EPA) published a proposed rule, *West Virginia Underground Injection Control (UIC) Program; Class VI Primacy* ([89 Fed. Reg. 93538](#)), that facilitates the submission by West Virginia seeking the EPA approve the state's application to obtain primary authority over the issuance of permits for Class VI underground injection wells located within the state. The public comment period is open through December 30, 2024. As reported by law firm Latham & Watkins LLP, "West Virginia's petition for primacy follows the adoption of legislation and development of state regulations that meet or exceed EPA's Class VI standards. If approved, the WVDEP will assume responsibility for issuing and managing Class VI permits, potentially accelerating the permitting process. This shift is expected to leverage the WVDEP's local expertise and resources, enabling more efficient project approvals tailored to the state's unique geological and industrial landscape." [Read more.](#)

**ONRR Accounting and Auditing for Federal Oil and Gas Marginal Properties.** On December 10, the U.S. Department of the Interior's Office of Natural Resources Revenue (ONRR) published a notice, *States' Decisions on Participating in Accounting and Auditing Relief for Federal Oil and Gas Marginal Properties* ([89 Fed. Reg. 99275](#)), providing that "ONRR provides two types of accounting and auditing relief for Federal oil and gas production from marginal properties: the cumulative royalty reports and payments relief option, which allows a lessee or designee to submit one royalty report and payment for the calendar year's production; and other requested relief, which allows a lessee or designee to request any type of accounting and auditing relief that is appropriate for production from the marginal property and meets certain requirements. By October 1 of each calendar year, ONRR provides a list of qualifying marginal Federal oil and gas properties to the States receiving a portion of Federal royalties from those properties. Each State then decides whether to participate in neither, one, or both relief options. This notice provides the public each State's decision on whether to participate in marginal property relief." The notice also contains a table showing "the States with qualifying marginal properties and those States' decisions on whether to participate in neither, one,

or both relief options for calendar year 2025."

[Read more.](#)

**U.S. Fish and Wildlife Service Rights-of-Way Permitting.** On December 11, the U.S. Fish and Wildlife Service (FWS) published a final rule, *Permitting of Rights-of-Way Across National Wildlife Refuges and Other U.S. Fish and Wildlife Service-Administered Lands* ([89 Fed. Reg. 99732](#)). According to the FWS, they are revising their "process for permitting of rights-of-way across National Wildlife Refuge System lands and other Service-administered lands. By aligning Service processes more closely with those of other Department of the Interior bureaus, to the extent practicable and consistent with applicable law, we will reduce the amount of time the Service requires to process applications for rights-of-way across Service-managed lands. We will require a preapplication meeting and use of a standard application, allow electronic submission of applications, and provide the Service with additional flexibility, as appropriate, to determine the fair market value or fair market rental value of rights-of-way across Service-managed lands. Additionally, we are implementing new permit terms and conditions and other regulatory changes." The rule is effective January 10, 2025. [Read more.](#)

## **STATE – Legislative**

**State Lease Term Extension – Ohio.** On December 11, the Ohio legislature passed [HB 308](#). Originally a bill defining nuclear energy as green energy in the state, a later bill amendment was added by Senate Republicans to extend the primary term of a state oil and gas lease – which includes drilling on state public lands, parks, and wildlife areas – from the existing 3 years to 5 years. The bill now heads to Gov. Mike DeWine (R) for signature. [Read more.](#)

**Texas Hydrogen Production Policy Council.** On December 5, the Texas Hydrogen Production Policy Council released its report to the Texas legislature, "[Hydrogen Energy Development in Texas – A Report for the 89th Texas Legislature](#)." Council membership, as noted by the Advanced Power Alliance, "is composed of leaders from government and industry including: Christi

Craddick, Chairman Railroad Commission of Texas; Richard Fenza, Air Liquide; Preston Kurtz, Air Products & Chemicals; Nigel Jenvey, Baker Hughes; Keith Wall, CenterPoint Energy; Ian Lindsay, Chevron New Energies; Angie Murray, Enterprise Products; Brian Weeks, GTI Energy; Jeffrey Pollack, Port of Corpus Christi Authority; Brian Korgel, The University of Texas at Austin; and Kelsie Van Hoose, Williams Companies.” [Read more](#). For background, “The report’s recommendations are focused on regulatory oversight of hydrogen production, transportation, storage, and maximizing economic opportunities for the development of the hydrogen industry in Texas.” For a summary of all the report recommendations, [Read more](#).

**For all 650+ bills AAPL is currently monitoring and tracking for members, please see the continuously updated member-exclusive AAPL Governmental Affairs Bill Tracking Summary spreadsheet,** available through the AAPLConnect LANDNEWS and Governmental Affairs Network member forums [here](#) or on the AAPL website [here](#).

## **STATE – Regulatory**

**California Air Resources Board GHG Reporting Notice.** On December 5, “the California Air Resources Board (CARB) published an Enforcement Notice providing reporting companies with additional flexibility in preparing their initial greenhouse gas (GHG) emissions reports under the [2023] Climate Corporate Data Accountability Act ([SB 253](#)), which will be due sometime in 2026.” As noted by law firm O’Melveny, SB 253 “imposes GHG emissions reporting obligations on public and private companies with annual revenues over \$1 billion that operate in California. Beginning in 2026, the Act will require reporting entities to annually report their scope 1 and 2 GHG emissions for the prior fiscal year. Additional reporting requirements for scope 3 GHG emissions will begin in 2027.” [Read more](#). The notice provides that “CARB recognizes that companies may need some lead time to implement new data collection processes to allow for fully complete scope 1 and scope 2 emissions reporting, to the extent they do not currently possess or collect the relevant information.” Further, [SB 219](#), enacted in September 2024, “amended state

law to extend the date for CARB to adopt the regulations specified in SB 253 from January 1, 2025, to July 1, 2025. The first reports by reporting entities will still be due in 2026 on a date to be established by CARB in its rulemaking. Those first reports will cover scope 1 and scope 2 emissions during the reporting entity’s prior fiscal year.” [Access the CARB Enforcement Notice here](#). For more information, see this legal analysis from law firm Freshfields [here](#). Further, on December 16, CARB issued an information solicitation asking the public for feedback on its implementation of SB 253, and related bills [SB 261](#) and SB 219, in its role in creating these GHG reporting regulations. The public comment period is open through February 14, 2025. [Access the CARB notice and information for submitting comments here](#). Read more about the CARB notice from law firm Covington & Burling LLP [here](#).

## **ECMC Produced Water Rulemaking – Colorado.**

*(Update to 9/30/24 Report)* As a reminder, the Colorado Energy & Carbon Management Commission (ECMC) has set January 24, 2025 as the deadline for written comments for their proposed produced water rulemaking. This will be followed by public hearings and associated deadlines to deliver oral public comments at the end of January and into February as noted by the ECMC. [Read more](#). You may also access more information about how to submit public comments on the [ECMC website here](#). For background, on September 20, the ECMC announced the release of produced water carbon rulemaking. [Read more](#). According to the ECMC, “On June 7, 2023, Governor Polis signed into law House Bill 23-1242 which amended the Colorado Oil and Gas Conservation Act, in part, by requiring the Commission to adopt rules implementing a statewide reduction in Fresh Water usage and a corresponding increase in usage of recycled or reused Produced Water at Oil and Gas Locations by December 31, 2024 [...] The Commission instituted this Produced Water Rulemaking to comply with the relevant provisions of House Bill 23-1242.” [Read more](#). You may [access a redline of the proposed rulemaking here](#).

### **New Mexico Environment Department Clean Transportation Fuel Program – New Mexico.**

On December 19, the New Mexico Environment Department (NMED) released their Discussion Draft Rule for the Clean Transportation Fuel Program. [Access the NMED Discussion Draft Rule here.](#) According to the NMED, “New Mexico’s clean transportation fuel program enables producers and importers of low-carbon transportation fuels to generate clean fuel credits, which can then be sold to producers and importers of high-carbon fuels. This credit marketplace will diversify the state’s transportation fuels, paving the way for less emissions.” Gov. Michelle Lujan Grishma (D) said, “New Mexico continues to lead on strategies to protect our planet from climate change while also creating the dynamic new clean energy jobs of the future. This new clean fuel program will help New Mexico continue to make progress toward our ambitious climate goals.” NMED also announced that “The public is encouraged to learn more and provide feedback on the draft rule at upcoming meetings. NMED will host an in-person meeting on Monday, Jan. 6, beginning at 4:30 p.m. at the Albuquerque International Public Library, as well as a virtual meeting from 12 p.m. to 1:30 p.m. on Thursday, Jan. 9. Additional details and links to the meetings are on the [NMED calendar.](#)” Additionally, “From Friday, Dec. 20 through Friday, Jan. 17 at 5 p.m., the department will also accept feedback through [NMED’s public comment portal.](#) The formal rulemaking process planned for the spring and summer of 2025 provides additional opportunities for public engagement and comments.” [Read more.](#)

**New Mexico Environment Department Greenhouse Gas Reports – New Mexico.** On December 13, the New Mexico Environment Department (NMED) announced it has “released two comprehensive reports analyzing greenhouse gas emissions across the state, providing the most detailed and accurate inventory of New Mexico’s emissions to date. Findings confirm that New Mexico is making significant progress in reducing its greenhouse gas emissions. The state is projected to achieve a 29% reduction in emissions by 2025 compared to 2005 levels, keeping on track to meet Gov. Michelle Lujan Grisham’s

climate goals.” Those reports are the [New Mexico Oil and Gas Greenhouse Gas Emissions Inventory for Year 2005](#) and [New Mexico Greenhouse Gas Emissions Inventory and Forecast.](#) The NMED has also prepared a presentation detailing the reports, [available here.](#) For more information, you may access the [NMED climate change website here.](#) The NMED also says it “will use these findings for the development of a Comprehensive Climate Action Plan supported by the U.S. Environmental Protection Agency-funded [Climate Pollution Reduction Grant.](#)”

### **Commercial Activity Tax Records Retention – Ohio.**

On December 16, a new section of the Ohio tax code regarding commercial activity tax record retention went into effect. The proposed rule was originally released on October 7, 2024 by the Ohio Department of Taxation. [Read more about that proposed rule here](#) The “Commercial Activity Tax” Section 5703-29-18 (Records retention requirements) were amended and add Section (C) requiring certain records be retained for four years as indicated. [Access the updated section here.](#)

### **Cecil Township Well Setbacks – Pennsylvania.**

A new oil and gas well setback ordinance in Cecil Township has taken effect. The Board of Supervisors of Cecil Township in Western Pennsylvania voted in mid-November to approve the ordinance. The amendment to the existing oil and gas ordinance increases “the setback distance for fracking operations to 2,500 feet from protected structures like residences and businesses, and to 5,000 feet from schools and hospitals.” [Access the ordinance here.](#) Although some called for banning drilling operations, as recently reported by *Forbes*, “Pennsylvania localities do not have the legal right to effectively ban fracking through the use of their local zoning laws. In addition, in many Pennsylvania communities with existing fracking operations, there remains substantial support for the process by the citizenry as a whole. Indeed, a recent poll by Muhlenberg College found that the percentage of Pennsylvanians who either strongly or somewhat support fracking has actually increased over the last ten years. However, that same study also showed that Pennsylvania residents overwhelmingly support



stronger regulations for fracking than currently exist in that State.” [Read more.](#)

### **Railroad Commission Rulemakings – Texas.**

On December 17, the Texas Railroad Commission adopted four final rulemakings that AAPL has been reporting on throughout the proposed rulemaking stages this year. The first is: “Amend §1.201 relating to Time Periods for Processing Applications and Issuing Permits Administratively.” This rulemaking notice provides that “The table in §1.201(a) is amended to reflect current permits, operating division names, and permit processing time periods.” The rulemaking also makes certain administrative but non-substantive changes to §1.201 to more closely align with other parts of the state code. [Access the §1.201 rulemaking with a redline of the amendments here.](#) The rule will be officially published in the Texas Register on January 3, 2025 and will take effect on January 6, 2025. The second rule is: “Amend §3.8 and other rules in Chapter 3, and new and amended rules in Chapter 4 to update oil and gas waste management procedures and incorporate recent legislation.” [Read more.](#) According to the RRC, “The new rules in Chapter 4, Subchapter A incorporate and update the requirements from §3.8, relating to Water Protection, and §3.57, relating to Reclaiming Tank Bottoms, Other Hydrocarbon Wastes, and Other Waste Materials. Sections 3.8 and 3.57 are also amended to remove all substantive language from the rules and replace with a notice that the requirements are relocated to Chapter 4. Several other rules in Chapter 3 are amended to replace references to §3.8 and §3.57 with the corresponding provision in new Subchapter A of Chapter 4.” [Access this rulemaking with a redline of the amendments here.](#) For a deeper dive into this oil and gas waste management rulemaking, [Read more.](#) This rule will be officially published in the Texas Register on January 3, 2025 and will take effect on July 7, 2025. Finally, the third rule is: “Adoption of new rules in Subchapter A of 16 TAC Chapter 6, relating to Geothermal Resources.” According to the RRC, “The Commission adopts the new rules to implement the requirements of Senate Bill 786 (88th Legislature, Regular Session, 2023). Senate Bill 786 amended Texas Water Code §27.037 to transfer regulatory authority of closed-loop geothermal injection wells to the

Commission from the Texas Commission on Environmental Quality (TCEQ). Thus, the bill provided the Commission with jurisdiction and permitting authority for these wells. Water Code §27.037 directs the Commission to adopt rules necessary to administer the section and to regulate closed-loop geothermal injection wells.” [Access this rulemaking with a redline of new sections here.](#) This rule will be officially published in the Texas Register on January 3, 2025 and will take effect on January 6, 2025. Also, as an update for those interested in pipeline rulemaking, on December 9, 2024 new RRC pipeline permit rules went into effect. The rule specifically amends “§3.70 and various rules in Chapter 8 re: Form T-4B and federal updates.” According to the RRC, they have “adopted amendments to incorporate federal categories of pipelines and to clarify reporting requirements” due to corresponding amendments. [Access the rulemaking with a redline of amendments here.](#) To learn more about all these RRC rulemakings, [Read more here.](#)

### **STATE – Judicial**

**Climate Change Lawsuit – Montana.** On December 18, the Montana Supreme Court ruled in favor of a group of young people who brought claims against the state of Montana for harms alleged from climate change. In [Held v. State of Montana](#) (Case No. 2024 MT 312), the youths, then ages 2 to 18 at the time of the original 2020 lawsuit, sued Montana, the governor, and multiple state agencies “alleging that the State’s actions exacerbated the harm they were feeling from climate change and seeking declaratory and injunctive relief. Specifically, they sought a declaration that certain provisions of Montana’s State Energy Policy Act, § 90-4-1001(1)(c)–(g), MCA (2011), and the Montana Environmental Policy Act (MEPA), § 75-1-201(2)(a), MCA (2011) (MEPA Limitation), were unconstitutional.” Here, the Supreme Court ruled that “Plaintiffs have standing to challenge the injury to their constitutional right to a clean and healthful environment. Montanans’ right to a clean and healthful environment was violated by the MEPA Limitation, which precluded an analysis of GHG emissions in environmental assessments and environmental impact statements during MEPA review. The MEPA

Limitation, § 75-1-201(2)(a), MCA, is unconstitutional and the State is enjoined from acting in accordance with it." An attorney for the plaintiffs, Melissa Hornbein of the Western Environmental Law Center said, "This ruling clarifies that the Constitution sets a clear directive for Montana to reduce its greenhouse gas emissions, which are among the highest in the nation on a per capita basis, and to transition to a clean, renewable energy future." Speaking on behalf of Montana Attorney General Austin Knudsen, Montana Justice Department Press Secretary Chase Scheuer said, "The majority of the state Supreme Court justices yet again ruled in favor of their ideologically aligned allies and ignored the fact that Montana has no power to impact the climate." [Read more.](#)

**Habendum Clause; Lease Termination; Joint Operating Agreements; Washouts – Texas.** As a follow-up to our reporting in 2023 and 2024, the Texas Supreme Court has set January 15, 2025 as the date for oral arguments in the ongoing case, [Cromwell v. Anadarko E&P Onshore, LLC](#) (Case No. 23-0927). As reported, "The petitioner [lessee/cotenant], whose lease was terminated by Anadarko E&P Onshore and upheld by the trial court and interim court of appeals, argues the El Paso court erred by inserting language into the lease to effectively dissolve his rights." The case was the subject of a presentation during the AAPL Annual Meeting in Boston, Mass. in June 2024 which indicated that "the decisions force every West Texas operator to drill its own well to maintain its leases if one party withholds an operating agreement." [Read more.](#) For background, "When Cromwell purchased his lease interest in 2009 he promptly submitted the leases to Anadarko and asked to participate in Anadarko's production. Anadarko billed Cromwell for his share of costs in the joint interest but never provided Cromwell a joint operating agreement despite Cromwell's repeated requests. Even so, Cromwell faithfully reimbursed Anadarko for his share of costs [...] In 2016, Anadarko took the position internally that Cromwell's leases had already expired because he did not drill his own oil and gas well. To accomplish the wash-out of Cromwell's leases, Anadarko secretly contacted Cromwell's lessors and persuaded them to sign top leases in favor of

Anadarko, Cromwell claims." The petitioner alleges, "Anadarko thus attempted to obtain leases covering the same fractional share of the minerals that is already covered by Cromwell's leases." The AAPL presentation noted, "The current law is ripe for abusive tactics. Anadarko flat refused to circulate a JOA." In its amicus brief, Chevron states, "By holding that Cromwell's lease terminated due to its alleged failure to participate in Anadarko's production, the court effectively inserted the words 'by the lessee' into the habendum clause. Further, "In Cromwell, the El Paso Court of Appeals takes a position that is diametrically opposed to the longstanding fealty to the freedom of contract principle that prohibits courts from rewriting contracts," argues Chevron. [Read more.](#) For further legal analysis of the case from law firm Oliva Gibbs LLP, [Read more here](#), and from law firm Harris, Finley & Bogle, P.C., [Read more here](#).

**Deed Reservations; Royalties – Texas.** On December 5, in [Boren Descendants and Mabee Descendants v. Fasken Oil and Ranch, Ltd.](#) (Case Nos. Nos. 11-22-00365-CV and 11-23-00001-CV), the Texas Court of Appeals, Eleventh District (Eastland), addressed the interpretation of a deed royalty reservation. At issue was the language in a 1933 deed reserving "an undivided one-fourth (1/4th) of the usual one eighth (18th) royalty." As noted by the court, this case is "raising again the now-ubiquitous 'double-fraction' deed construction issue." At trial, the court "rendered summary judgment in favor of Fasken, holding that the deed conveys a one-fourth floating interest to Fasken, rather than a fixed 1/32 interest." Here, the court held that the trial court "correctly determined that the 1933 deed conveyed a floating 1/4 interest. The 1933 deed is not ambiguous, nor does it include any additional fractions aside from the referenced 1/8. Therefore, two of the three possible types of rebuttal evidence do not exist in this case. The third type of rebuttal evidence is a provision that could not be harmonized if 1/8 is given the term-of-art usage." The court relied upon the 2023 Texas Supreme Court decision in *Van Dyke* in its analysis in the present case and in applying "the *Van Dyke* presumption [...] we express no opinion as to whether the mere use or absence of the language 'the usual' in conjunction with 'one-eighth (1/8th)

royalty' is, by itself, determinative in deciding whether a reserved royalty is fixed or floating, in all circumstances." As noted by law firm Graves, Dougherty, Heaton & Moody's *Oil and Gas Lawyer Blog*, the court, "in construing the deed's reservation language, [was] applying *Van Dyke's* presumption that, whenever a reservation contains a double fraction, the deed is intended to convey a floating royalty unless other language in the document leads to a different interpretation." [Read more.](#)

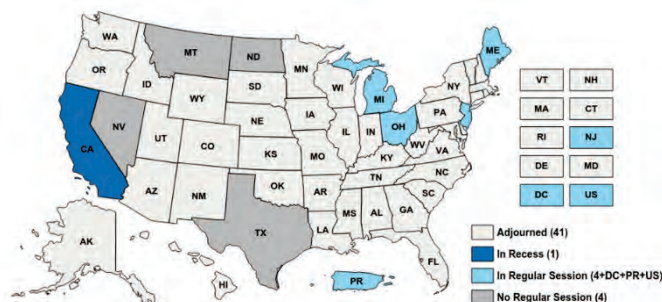
**Leasing; Royalty Interests; Assignments; Depth Limitations – Texas.** On October 18, in *Rock River Minerals, LP v. Pioneer Natural Resources USA, Inc.* (Case No. 08-23-00216-CV), the Texas Court of Appeals of Texas, Eighth District (El Paso), addressed whether the appellant's "assignment of his royalty interests in oil, gas, and mineral leases included a depth limitation." The court upheld the trial court judgment that it did not, ruling in favor of Pioneer. Here, Pioneer and the other appellees argued "that the Unit Agreement is only used to determine the boundaries of the surface of the land, but not the depth of the land, from which the conveyed oil and gas rights derive." The appellate court agreed. Further, the court noted, that the appellant "conveyed interests within the *unit* which is different from and not limited by the depths of the unitized formation." [Read more.](#)

## INDUSTRY NEWS FLASH

► **90% of 2025 oil supply growth expected to come from non-OPEC+ countries.** On December 10, the *Oil & Gas Journal* reported that the U.S. Energy Information Administration forecasts that "Global oil production will increase by 1.6 million b/d in 2025, and almost 90% of that growth will come from non-OPEC+ countries due to ongoing production restraint of OPEC+." [Read more.](#)

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes:** Michigan and Ohio are in regular session. The U.S. Congress is in regular session.

The following are expected to convene for the 2025 legislative session on the dates provided: **U.S. Congress** (January 3), **Montana, Ohio and Wisconsin** (January 6), **Kentucky, Mississippi, North Dakota, and Pennsylvania** (January 7), and **Colorado, Illinois, Indiana, Maryland, Michigan, Missouri, Nebraska, New York, North Carolina, and Virginia** (January 8).

The following states are currently holding interim committee hearings or studies: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [California House](#) and [Senate](#), [Colorado](#), [Connecticut](#), [Georgia](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maryland](#), [Mississippi House](#) and [Senate](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [New York Assembly](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#), [Oregon](#), [Rhode Island](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Texas House](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#) and [Wyoming](#).

The following states are currently posting 2025 bill drafts, pre-files and interim studies: [Alabama](#), [Arizona](#), [Arkansas](#), [Florida](#), [Iowa](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire](#), [North Dakota](#), [Oklahoma](#), [South Carolina](#), [Tennessee](#), [Texas](#), [Utah](#), [Virginia](#), [Washington](#) and [Wyoming](#). ■

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