

WEEKLY HIGHLIGHTS AT-A-GLANCE**FEDERAL – Regulatory**

- **BLM Oil & Gas Lease Sale – Montana.** On April 24, the Bureau of Land Management Montana State Office (BLM-Montana) [announced that it is deferring all 223 nominated parcels](#) for the upcoming June 12, 2018 competitive oil and gas lease sale to comply with a March 26 court order in [Western Organization of Resource Councils v. U.S. Bureau of Land Management](#) (Case No. CV-16-21-BF-BMM) which ordered that any new or pending oil and gas lease sales in the Miles City Resource Management Planning area “must undergo comprehensive environmental analysis in compliance with the opinion.” Acting State Director, Jon Raby, in announcing the deferred parcels, said that he has “determined that additional environmental analysis is necessary.” [Read more.](#)

FEDERAL – Judicial

- **BLM Permitting and Drilling – New Mexico Federal Court.** In a victory for the industry, on April 23, in [Diné Citizens Against Ruining Our Environment et al. v. Jewell et al.](#) (Case No. 1:15-cv-00209-JB-LF), the U.S. District Court for the District of New Mexico held that proposed hydraulic fracturing wells in New Mexico’s San Juan Basin may proceed because the BLM followed federal requirements in assessing and issuing permits for those wells. The court rejected claims by American Indian and environmental groups who claimed the new wells posed health and cultural harms. The case stems from an earlier attempt by these groups seeking an injunction against the operations in a long-running dispute over management of vast expanses of land surrounding Chaco Culture National Historical Park. The denial of that injunction was upheld by the U.S. Circuit Court of Appeals for the Tenth Circuit in 2016, which noted “the overall amount of drilling and related surface impacts are still within the anticipated level” specified in a 2003 BLM environmental assessment. [Read more.](#)
- **BLM Oil and Gas Leasing – Colorado Federal Court.** On April 26, multiple environmental groups filed a lawsuit against the BLM charging that federal approvals of 53 lease sales on more than 45,000 acres in western Colorado violated the law by failing to include site-specific environmental analyses. In [Wilderness Workshop et al. v. U.S. Bureau of Land Management et al.](#) (Case No. 1:18-cv-00987), the plaintiffs claim the lease auctions held during both the Obama and Trump administrations violated the National Environmental Policy Act and that analyses of environmental and human health impacts should have been considered. We will keep you updated on case developments once the government responds to the complaint. [Read more.](#)

STATE – Legislative

- **Drilling Units; Pooling Orders – Colorado.** (*Update from 4/16/18 Weekly Report*) On April 24, [SB18-320](#), originally introduced by Sen. Vicki Marble (R), passed in the Senate and was referred to the House State, Veterans, & Military Affairs Committee. On May 2, the House State, Veterans, and Military Affairs Committee will hold a hearing on the bill in the Legislative Services Building located at 200 E. 14th Avenue directly south of the Capitol in Room LSB-A at 1:30 pm. The bill clarifies that an order entered by the Colorado Oil and Gas Conservation Commission (COGCC) establishing a drilling unit may authorize more than one well. The order must specify that a non-consenting owner is immune from liability for costs arising from spills, releases, damage, or injury resulting from oil and gas operations on the drilling unit. This bill also limits this 200% cost recovery to wells 5,000 feet or less in depth and increases the cost recovery to 300% for wells greater than 5,000 feet in depth and for horizontal wells. Additionally, while current law prohibits entry of a pooling order until the mineral rights owners have been given a reasonable offer to lease their rights, this bill specifies that the offer must be given at least 60 days before the hearing on the order and must include a copy of or link to a brochure supplied by COGCC that clearly and concisely describes the pooling procedures and the mineral owner’s options pursuant to those procedures. [Read more.](#)
- **Royalties; Production Income – Illinois.** On April 24, HB 4920, initially introduced by Rep. Barbara Wheeler (R), passed in the House and was referred to the Senate for consideration. The bill amends the Principal and Income Act by providing that, only for oil or gas from non-coal formations held in non-trust estates and by legal tenants and remaindermen (instead of “with respect only to non-trust estates, for oil or gas from non-coal formations”), proceeds from the sale of such minerals produced and received as royalty, overriding royalty, limited royalty, working interest, net profit interest, time-limited interest or term interest, or lease bonus shall be deemed income. The bill also deletes language providing that a section concerning non-trust estates does not apply to life estates and remainder interests in oil or gas from non-coal formations, or royalties or overriding royalties created under leases of such minerals. [Read more.](#)
- **Certifications; Licensing – Louisiana.** On April 10, [HB 748](#) was received in the Senate after bipartisan passage in the House on April 9. The bill, sponsored by Rep. Julie Emerson (R), establishes the Occupational Licensing Review Act which seeks to lessen the burdens of over-regulation of professional licensure. Although it does not specifically target landmen there is some concern that such a measure could ultimately devalue AAPL certification designations should landmen ever be required to hold state licensure. This is so because the measure would restrict the use of credentials as prerequisites for licensing of many professionals in the state. However, proponents of the bill say that state licensure requirements have grown too burdensome. The bill itself does not change any licensure regulations, but requires a review of existing

occupational regulatory schemes and requires recommendations on how they can become less restrictive. [Read more.](#)

- **Liens – Louisiana.** On April 24, SB 456, introduced by Sen. Ronnie Johns (R), was reported favorably out of the House Committee on Civil Law and Procedure after passing in the Senate on April 3. Present law defines what is and is not operations for purposes of the Louisiana Oil Well Lien Act, and includes salt water or another waste substance after placed in a means of transportation for disposal, as an activity that is not included in operations. The bill would remove the disposal of salt water or another waste substance from the list of activities that is not included in the definition of operations. [Read more.](#)
- **Production Fees – Louisiana.** On April 26, HB 331, originally introduced by Rep. Jim Morris (R) in the House, passed the Senate. Present law imposes a set fee on the production of oil, condensate, and gas that is in addition to any severance taxes imposed on such production and specifies that the proceeds of the fee are to be used for the oilfield site restoration program in the Department of Natural Resources. The proposed law retains present law and provides that the fee is payable upon the initial disposition of each barrel of oil and condensate. The bill also provides that the proposed law is remedial and curative and will be applied retroactively to July 1, 2017, as well as prospectively. Additionally, the bill requires that to prevent double payment, amended oilfield site restoration fee returns, along with a reconciliation report and any fee due, be submitted to the Department of Revenue for those returns filed between July 1, 2017 and June 30, 2018. [Read more.](#)
- **Permitting – Louisiana.** (*Update to 4/23/18 Weekly Report*) On April 26, HB 860, introduced by Rep. Stephen Pugh (R) in the House, passed the Senate. Regarding energy/drilling permits, the bill adds provisions to present law, which allows for expedited processing of permits, modifications, license, registrations and variances, to also include the expedited review of plans, proposals and exceptions of related correspondence. The bill would also specify that the minimum fee for administrative costs associated with expedited processing would be \$500 and requires that public notice be given once the expedited permit review is granted rather than when it is requested. If passed, the bill would take effect August 1. [Read more.](#)
- **Corporate Franchise Taxes – Louisiana.** (*Update to 4/16/18 Weekly Report*) On April 25, HB 341, originally introduced in the House by Rep. Neil Abramson (D), passed the Senate. The bill would change the due date for corporate franchise tax filings from the 15th day of the third month to the 15th day of the fourth month. The bill would take effect one day following enactment. [Read more.](#)
- **Income Taxes – Nebraska.** On April 18, LB 1074, introduced by Sen. Tony Vargas, was indefinitely postponed. The bill would have lowered income taxes on low and middle

income earners by adding new tax brackets for higher income earners. The measure also would have increased the state portion of the Earned Income Tax Credit from 10 percent to 12 percent of the federal credit. [Read more.](#)

STATE – Regulatory

- **Permitting – West Virginia.** On April 23, Governor Jim Justice (R) issued an executive order intended to streamline the state permitting process. [Executive Order No. 9-18](#) provides for an expedited permitting process for all projects including prioritization of permits for projects of critical economic concern. The Executive Order “does not specify what types of permits would be considered under the order, but allows companies to petition the West Virginia Development Office to have their project considered a ‘project of critical economic concern.’ The Development Office would then have 45 days to rule on the request.” The Order also requires executive state agencies to file written reports to the permit applicant, executive director of the state Development Office, and Governor, explaining inaction on completed permit applications for projects of critical economic concern. Additionally, the Order establishes an annual reporting requirement from the Development Office to the Governor and Legislature explaining whether the program is operating successfully. [Read more.](#)

STATE – Judicial

- **Ballot Measure – Ohio.** On April 24, the Ohio Supreme Court, in [State ex rel. Khumprakob v. Mahoning Cty. Bd. of Elections](#) (Case No. 2018-Ohio-1602), ruled that the Mahoning County Board of Elections must place a proposed city charter amendment—the so-called “Youngstown Drinking Water Protection Bill of Rights” — on the May 2018 ballot, which includes provisions that “if adopted by Youngstown’s electors, would in general terms ... recognize certain rights of Youngstown residents and of ‘ecosystems and natural communities within the city’ to ‘clean water, air, and soil’ and to be free from certain fossil-fuel drilling and extraction activities.” The Mahoning County Board of Elections previously voted not to place the proposed amendment on the ballot believing the proposed amendment contained provisions beyond the city’s power to enact but the court disagreed finding that the “Mahoning County Board of Elections abused its discretion in finding that the measure exceeds the city’s legislation power.” [Read more.](#)

State-by-State Legislative Session Overview

Alaska, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina and

Vermont are in regular session. The **District of Columbia** Council, **Puerto Rico** and the **United States** Congress are also in regular session.

Wisconsin is in recess to the call of the chair. **Maine** concluded legislative business on April 19 and is in recess to the call of the chair. The legislature is expected to hold a veto session on May 2 before formal adjournment, [Bangor Daily News](#) reports.

The following states are expected to adjourn on the dates provided: **Hawaii** (May 3), **Kansas** and **Vermont** (May 4), **Colorado** and **Connecticut** (May 9) and **South Carolina** (May 10).

The following state adjourned on the date provided: **Tennessee** (April 25). **Alaska** did not adjourn on the April 15 constitutional regular session deadline and must adjourn before May 16, [KTVA](#) reports. **Arizona** and **Iowa** did not adjourn on April 21 as expected.

Virginia convened a special session on April 11 and held a one-day veto session on April 18. The House voted to pass the \$115 billion, two year spending plan on April 17, [The Washington Post](#) reports. The session is in recess until May 14, [WCAV](#) reports.

Oklahoma adjourned its second special session on April 19, [Tulsa World](#) reports.

Indiana Republican Gov. Eric Holcomb has issued a [proclamation](#) calling for a one-day special session on May 14 to address school safety and federal tax conformity, the [Goshen News](#) reports. **Oregon** Democrat Gov. Kate Brown released a statement announcing a one-day special session on May 21 to address the state's tax code in order to expand the list of small businesses eligible for state tax breaks, reports the [Statesman Journal](#).

Georgia Republican Gov. Nathan Deal has until May 8 to act on legislation presented after March 23 or it becomes law without signature. **Illinois** Republican Gov. Bruce Rauner has 60 days from presentment to act on all legislation passed during the veto session or it becomes law. **Louisiana** Democratic Gov. John Bel Edwards has 20 days from presentment to act on special session legislation or it becomes law. **Maryland** Republican Gov. Larry Hogan has 30 days from presentment to act on legislation presented after April 3, and bills must be presented by April 29. **Oklahoma** Republican Gov. Mary Fallin has five days from presentment, Sundays excepted, to act on special session legislation or it becomes law. **Tennessee** Republican Gov. Bill Haslam has 10 days starting the day after presentment, Sundays excepted, to act on legislation or it becomes law without signature. **Wisconsin** Republican Gov. Scott Walker has six days, Sundays excepted, to act on special session legislation or it becomes law.

Nebraska Republican Gov. Pete Ricketts had a signing deadline on April 24. **Kentucky** Republican Gov. Matt Bevin had a signing deadline on April 26. **Arkansas** Republican Gov. Asa Hutchinson, **Florida** Republican Gov. Rick Scott and **Mississippi** Republican Gov. Phil Bryant have acted on all legislation.

The following states are currently holding 2019 interim committee hearings: [Alabama](#), [Arkansas](#), [Idaho](#), [Indiana](#), [Maryland](#), [Mississippi Senate](#), [Montana](#), [Nevada](#), [New Mexico](#),

[North Carolina](#) (2018 interim hearings), [North Dakota](#), [Oregon](#), [South Dakota](#), [Texas House](#) and [Senate](#), [Virginia](#), [Washington](#), [West Virginia](#) and [Wyoming](#).

The following states are currently posting 2019 bill drafts, profiles and interim studies: [Montana](#) and [North Dakota](#).

Franchise Tax

Louisiana [HB 341](#) passed the Senate on April 26 and was enrolled. The bill would change the due date for corporate franchise tax filings from the 15th day of the third month to the 15th day of the fourth month. The bill would take effect one day following enactment.

General Oil and Gas

Bundling and Pooling

Colorado [HB 1289](#) passed the House Transportation and Energy Committee with [amendments](#) following an 8-7 vote on April 26. The bill is now pending in the House Appropriations Committee. The bill would exempt local governments and school districts that own mineral rights from being force pooled if they acquired the mineral rights before the pooling order was filed. The bill would take effect 91 days following adjournment, which is currently scheduled for May 9.

General

Louisiana [HB 331](#) passed the Senate on April 26 and was returned to the House for final enrollment. The bill would provide that the oil site restoration fee charged on the production of oil is payable upon the initial disposition of each barrel of oil and condensate. The bill would take effect July 1 and would apply retroactively to July, 2017.

Louisiana [HB 860](#) passed the Senate on April 26 and was returned to the House for final enrollment. Present law authorizes the Conservation Commissioner to develop and implement a program to expedite the processing of permits, modifications, licenses, registrations and variances. The bill would retain present law but would allow the commissioner to expedite the review of plans, proposals and exceptions of related correspondence. The bill would also specify that the minimum fee for administrative costs associated with expedited processing would be \$500. The bill would require that public notice be given once the expedited permit review is granted rather than when it is requested. The bill would take effect August 1.

Louisiana [SB 456](#) passed the House Civil Law and Procedure Committee on April 26 and is now pending third reading and final passage in the House. The bill would remove the disposal of salt water or another waste substance from the list of activities that is not included in the definition of operations. The bill would take effect August 1.

Hydraulic Fracturing

Colorado [HB 1352](#) passed the House Health, Insurance and Environment Committee on April 26 and is now pending in the House Appropriations Committee. The bill would require newly permitted production facilities to be located at least 1,000 feet from any school. The bill would not apply to production facilities that are actively in use or permitted at the time the school commences operations. The bill would define a production facility to be any storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, or other equipment directly associated with oil, gas or injection wells.

Colorado [HB 1419](#), sponsored by Rep. Mike Foote, D-Lafayette, was referred to the House State, Veterans and Military Affairs Committee on April 23 and passed that committee with [amendments](#) on April 25. As amended, the bill would require the oil and gas conservation commission to promulgate rules as soon as practicable to ensure proper wellhead integrity of all oil and gas production wells. The bill would also require oil and gas operators to give electronic notice of the location of each flow line and gathering pipeline installed, owned or operated by the operator to the commission director and each local government where the subsurface facility is located. The bill would also specify that operators share their development plans with counties in addition to municipalities. The bill would take effect immediately.

Illinois [SB 3174](#) passed the Senate following a 32-17 vote on April 26 and is now pending in the House Rules Committee. As amended, the bill would require the following information to be included on a well permit:

- The GPS surface and bottom hole locations for all wells drilled utilizing directional or horizontal drilling techniques.
- A list of chemicals and additives intended to be used in the drilling or completion operations.

The bill would also prohibit horizontal wells or directionally drilled wells from being classified as confidential. The bill would require the Department of Natural Resources to make specified information available on its website including drilling permits issued as well as well drilling and completion reports. The bill would protect furnished trade secret information from further disclosure if the department determines that the information has not been published, disseminated or otherwise become a matter of general public knowledge and the information has competitive value. The bill would take effect January 1, 2019 if passed prior to May 31; however, if the bill is passed after May 31 then it would take effect June 1, 2019.

Landmen

Landmen License and Registration

Pennsylvania [SB 835](#) passed the Senate Consumer Protection and Professional Licensure Committee on April 24. The bill would provide for the mandatory registration of land agents. A land agent would be defined as a person who, in the course and scope of the person's business, has been engaged primarily in:

- Negotiating the acquisition or divestiture of oil, gas or mineral rights, including the acquisition or divestiture of land or oil, gas or mineral rights for a pipeline.
- Negotiating business agreements that provide the exploration for or development of oil, gas or minerals.
- Determining the ownership of oil, gas or minerals through research of public and private records.
- Reviewing the status of title, curing title defects, and otherwise reducing title risk associated with ownership of oil, gas or minerals.
- Managing rights or obligations derived from ownership of interest and oil, gas or minerals.
- Activities to secure the unitization or pooling of interests in oil, gas or minerals.

The bill would establish and maintain a state registry of land agents operating in the state, which would be available for public inspection on the Pennsylvania Real Estate Commission's website. The commission would also be instructed to establish an initial registration application fee and a biennial renewal fee, which each applicant would have to submit along with specified information, including a list of any other state or other jurisdiction in which the applicant holds or has held a similar registration or license and a list of any other state or jurisdiction in which the applicant has had a similar registration or license suspended or revoked. The bill would take effect 60 days following enactment. AAPL has engaged outside counsel to further monitor any developments and intervene as necessary to protect our members.

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