

KING & SPALDING

Energy Newsletter



February 2020

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ENVIRONMENTAL

TRANSACTIONS / REGULATORY - U.S./CANADA

U.S. Government's Continued Focus on Large Ship Air Emissions

Marcella Burke, Ilana Saltzbar, William J. (Bill) Sauers, and Arlene Hennessey

The EPA and the USCG continue to signal interest in addressing air pollution for violations of MARPOL's regulatory SOx and NOx standards for engines and fuel in large ships and ocean-going vessels. Certain enforcement activity in 2019 may be seen as a message to the maritime sector at-large, in advance of new 2020 global standards to further reduce SOx and NOx. [More »](#)



TRANSACTIONS

OIL & GAS – U.S./CANADA



Moving Towards Alignment in Midstream Contracts (Part One)

Peter Hays

The primary goals of many upstream companies have shifted in recent years away from obtaining a core acreage position and towards the more fulsome commercial development of their acreage as a whole project and the creation of a portable business that will generate positive cash flow from existing and new production, above a certain floor commodity price. The unifying principle that seems to have emerged in negotiations over long-term midstream agreements as operators seek to implement these cash-flow optimization principles is the need for counterparties to imaginatively and cooperatively restructure traditional forms into a contract that is fair and balanced over its entire term. Under this new “right-way alignment model” the parties negotiate the contract with the recognition that commodity price fluctuations will occur and seek to eliminate provisions that create one-way risk and/or encourage zero sum outcomes in favor of structures that incentivize cooperation and growth. This article is the first in a series examining new structures of this right-way model. [More »](#)

REGULATORY, ENVIRONMENTAL, LITIGATION

U.S./CANADA

NEPA Modernization Promises Significant Change

Marcella Burke, Nikesh Jindal, Lewis B. Jones, I. Cason Hewgley IV, Peter Hsiao and Cynthia AM Stroman

The Trump administration recently proposed updates to the regulations implementing the National Environmental Policy Act, a federal statute that requires agencies to analyze the environmental impact of certain proposed actions. In addition to several procedural reforms designed to streamline the NEPA process, the regulations if finalized would no longer require agencies to consider climate-change impacts. Because it is virtually certain that environmental plaintiffs will challenge the rule with a coordinated litigation effort, industry stakeholders will want to participate by submitting their views and experiences to build the administrative record, which will provide the basis for challenging or defending the final rule. [More »](#)

REGULATORY, PROJECT DEVELOPMENT AND FINANCE

OIL & GAS / LNG – U.S./CANADA

UPCOMING EVENTS

Houston Corporate, Finance and Investments counsel Monica Hwang will speak at the BAML 2020 LNG Conference on March 12 in New York. Monica will participate in a panel discussion on LNG contracting for Gulf Coast, West Coast, and international projects

When: March 12, 2020

Where: New York

[More Information »](#)

Join top executives from leading oil and gas companies, strategic investors, financial advisors, and consultants for King & Spalding’s Energy Forum, Decommissioning, as we discuss some of the major challenges and opportunities facing energy businesses in the United States today

When: April 16, 2020

Where: Hotel Alessandra, 1070 Dallas Street, Houston, Texas

IN THE NEWS

David Lang quoted on U.S. LNG producers fearing more price drops [More »](#)

Cynthia Stroman explains the growing pains the EPA faces as it implements the amended chemical laws [More »](#)

Jason Jones discusses the SEC enforcement of foreign bribery laws [More »](#)

King & Spalding Advises on the First Privatization Transaction by

Anticipated IRS Guidance on Section 45Q Rumored to Be Just Around the Corner

The Kingdom of Saudi Arabia as
Part of its Vision 2030 Plan [More »](#)

*Edouard S. Markson, Jonathan Talansky, Jonathan M.A. Melmed,
Adam Hankiss, Nikolai Karetnyi*

In a move that would resolve existing uncertainties, the IRS is anticipated to issue proposed regulations and other interim guidance regarding the Section 45Q federal tax credit for the sequestration of carbon oxides and certain other greenhouse gasses from industrial sources that would otherwise be released into the atmosphere as industrial emissions. This impending guidance is expected to build on earlier reforms of Section 45Q (such as the removal of a program-wide cap) and reconcile the qualification requirements of Section 45Q with current practices in the growing carbon capture industry. New legislative clarity will enable tax equity investors, project developers, and other carbon capture industry stakeholders to structure investments in a manner that accesses the full benefits of the Section 45Q tax credit, while spurring activity in the carbon capture, utilization, and storage markets. [More »](#)

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