

# GOVERNMENTAL AFFAIRS WEEKLY REPORT

## Weekly Highlights At-A-Glance

### FEDERAL – Legislative

**S. 2836 – America’s Revegetation and Carbon Sequestration Act of 2021.** On September 23, bipartisan bill, [S. 2836](#), known as “America’s Revegetation and Carbon Sequestration Act of 2021,” was introduced by Sen. Joe Manchin (D-WV), and seeks to “improve revegetation and carbon sequestration activities in the United States.” Cosponsored by Sen. Angus King (I-ME), Sen. John Barrasso (R-WY), and Sen. Roger Marshall (R-KS), the bipartisan measure would sequester carbon and improve ecosystems through revegetation; mitigate carbon emissions through wildfire prevention; and store carbon through expanded use of wood products. The bill does not target the fossil fuel industry for carbon sequestration or capture. [Read more.](#)

### FEDERAL – Regulatory

**BLM Resource Advisory Councils.** On September 21, the Bureau of Land Management (BLM) published a “National Call for Nominations for Resource Advisory Councils” ([86 Fed. Reg. 52496](#)). According to the BLM, “The purpose of this notice is to request public nominations for 16 of the Bureau of Land Management’s (BLM) statewide and regional Resource Advisory Councils (RAC) located in the West that have vacant positions and/or members whose terms are scheduled to expire. These RACs provide advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within their geographic areas.” The nomination period is open through October 21, 2021. [Read more.](#)

**BLM Resource Advisory Council Meetings – Northwest Colorado.** On September 21, the BLM

published notice of the “Northwest Colorado Resource Advisory Council Meetings” ([86 Fed. Reg. 52495](#)) which will begin October 20, 2021. According to the BLM, “The 15-member Northwest Colorado RAC advises the Secretary of the Interior, through the BLM, on a variety of public-land issues in the Northwest District, including the Little Snake, White River, Kremmling, Grand Junction, and Colorado River Valley Field Office.” The meetings will include field tours and public comment periods. [Read more.](#)

**BLM Resource Advisory Council Meetings – Southwest Colorado.** On September 21, the BLM published “Notice of Public Meetings of the Southwest Colorado Resource Advisory Council” ([86 Fed. Reg. 52495](#)) which will begin October 20, 2021. According to the BLM, “The 15-member Southwest Colorado RAC advises the Secretary of the Interior, through the BLM, on a variety of public-land issues in the Southwest District, including the Uncompahgre, Tres Rios, and Gunnison Field Offices.” The meetings include a field trip and business meeting, which are open to the public. [Read more.](#)

**BOEM Gulf of Mexico Lease Sale. (*Update to 9/20/21 Weekly Report*)** On September 30, the Interior Department’s Bureau of Ocean Energy Management (BOEM) announced that it will hold its Gulf of Mexico lease sale on November 17, 2021. In its initial record of decision notice issued on September 7, the BOEM had not provided a date. Lease Sale 257 “will include 15,135 blocks that lie 3-231 miles offshore in water depths from 9 to more than 11,115 ft. The royalty rate will be 12.5% for leases in less than 200 m of water and 18.75% for all other leases.” [Read more.](#) For background, on September 7, the BOEM published a notice of availability of a record of decision for Gulf of Mexico leasing. According to

the BOEM notice, “Gulf of Mexico, Outer Continental Shelf (OCS), Oil and Gas Lease Sale 257” ([86 Fed. Reg. 50160](#)), “This Record of Decision identifies BOEM’s selected alternative for proposed Lease Sale 257, which is analyzed in the *Gulf of Mexico OCS Lease Sale: Final Supplemental Environmental Impact Statement 2018* (2018 GOM Supplemental EIS).” [Read more.](#)

**Interior Department Nomination.** On September 21, the Senate Committee on Energy & Natural Resources [held a full committee hearing](#) to consider the nomination of Laura Daniel-Davis for Assistant Secretary of the Interior, Land and Minerals Management. During testimony, Daniel-Davis told the panel that regarding the Biden administration’s pause on federal oil and gas leasing, “the department will publish its review of the federal oil and gas leasing program in the short term, but said it must first undergo interagency review.” According to the Hill, Daniel-Davis did not provide senators with a specific timeline for the release of the report, which was initially expected during the summer. [Read more.](#)

**BLM Director Confirmation Hearing.** (*Update to 6/14/21 Weekly Report*) On September 30, the U.S. Senate confirmed President Biden’s pick to head the BLM. Tracy Stone-Manning narrowly secured her position as BLM Director by a strict party line vote of 50-45 with no Republicans supporting her appointment. Throughout her contentious confirmation hearings, Stone-Manning was scrutinized by Republicans and industry groups for her former eco-activism and their belief that she wouldn’t support traditional energy development. [Read more.](#)

**New Mexico Air Permitting.** On September 20, environmental activist group, WildEarth Guardians [delivered a letter to Michael Regan, Administrator of the U.S. Environmental Protection Agency \(EPA\)](#) demanding the EPA sanction the New Mexico Environment Department (NMED) for allowing oil and gas production without the legally required operating permits and demanding “all sources of air

pollution operating in violation of Title V of the Clean Air Act to cease operations.” The letter claims that NMED “is currently allowing dozens of stationary sources of air pollution to illegally operate and pollute the air without required oversight under Title V of the Clean Air Act. These sources of air pollution are all associated with the oil and gas production industry.” [Read more.](#)

**Office of Natural Resources Revenue; Royalties.** (*Update to 6/14/21 Weekly Report*) On September 30, the Office of Natural Resources Revenue (ONRR) published its final rule, “ONRR 2020 Valuation Reform and Civil Penalty Rule: Final Withdrawal Rule” ([86 Fed. Reg. 54045](#)), which rescinds the Trump-era ONRR rulemaking that lowered some companies’ royalty payments to the federal government for oil, gas, and coal extracted from federal lands. The Biden administration’s withdrawal rulemaking reverts the valuation back to that which existed under the Obama administration. The rule also assesses civil penalties for violations of certain statutes, regulations, leases, and orders associated with mineral leases. According to the Interior Department, “The net impact of withdrawing the 2020 Rule is an estimated \$64 million annual increase in royalty collections over what would have been realized if the 2020 Rule went into effect.” The Trump-era rule, which was finalized in January 2021, was roundly supported by oil and gas industry groups who argued that the 2016 valuation regulations were “needlessly complex and injected uncertainty into the royalty process.” [Read more.](#)

## **FEDERAL – Judicial**

**Climate Change – New Jersey Federal Court.** On September 8, in *City of Hoboken v. Exxon Mobil Corp.* (Case No. 20-CV-14243), the U.S. District Court for the District of New Jersey, addressed a case where a New Jersey city alleges that the defendant oil and gas companies are “engaged in a decades-long campaign to downplay the effect of fossil fuel usage on climate change” and that “its residents have been damaged by this conduct through the dire effects of global warming.” As the

court stated, this “case is one of many similar cases recently filed throughout the United States seeking to hold oil and gas companies accountable for their role in climate change.” The defendants have sought to keep the case in federal court, while the plaintiff seeks to pursue the action in state court, which they perceive as more favorable to their lawsuit. Here, the court agreed with the plaintiff city and remanded the case back to state court, holding that the “focus of Hoboken’s claims is on harm that occurred in Hoboken rather than in a federal enclave.”

[Read more.](#)

**BOEM Gulf of Mexico Lease Sale. (Update to 9/7/21 Weekly Report)** On September 22, the U.S. District Court for the District of Columbia ruled that Louisiana can intervene in a lawsuit brought by environmental groups against the Biden administration for their decision to hold an offshore oil and gas lease sale. According to Bloomberg Law, “The Biden administration told the court that the earliest date a lease will be issued and effective is Jan. 1, 2022.” The state had argued before the court that the environmental activists’ effort to block the sale conflicts with a Louisiana federal court’s order under which the sale must go forward. Here, the D.C. court said there’s doubt that the federal government will adequately represent the state’s interests and thus allowed them to intervene in the case to ensure the lease sale proceeds as intended. According to Judge Randolph D. Moss, who issued the order, Louisiana showed it has a “legally protected interest in the lease sale revenues” and that the environmental groups’ claims threaten that interest. For background, this litigation arises from the upcoming [BOEM Gulf of Mexico Lease Sale 257](#). On August 31, environmentalists filed a complaint against the Biden administration challenging the sale and sought an injunction to stop it. In [Friends of the Earth v. Haaland](#) (Case No. 1:21-cv-02317), the litigants claim the sale is unlawful and say the decision “to hold Offshore Oil and Gas Lease Sale 257 in the Gulf of Mexico in reliance on arbitrary environmental analyses, [is] in violation of the National Environmental Policy Act (‘NEPA’) and the Administrative Procedure Act (‘APA’).” According to

one of the plaintiffs, the Center for Biological Diversity, “The environmental analysis of the proposed sale relies on improper modeling to conclude that *not* having the lease sale will result in *more* greenhouse gases.” [The group says](#) “The analysis is not only flawed but also out of date. The Interior Department last looked at the environmental impacts of a lease sale in 2017. Since Interior completed its environmental analysis, significant new information has emerged that demonstrates, among other things, the dire state of the climate crisis and the potential for increased harm to endangered species, including the Rice’s whale, one of the most endangered whales on the planet, that is only found in the Gulf of Mexico.” The Interior Department has not yet responded to the lawsuit.

[Read more.](#)

## **STATE – Legislative**

**Remote Notarial Acts – North Carolina. (Update to 9/7/21 Weekly Report)** On September 22, HB 776 passed both chambers of the General Assembly. Sponsored by Rep. Robert Reives (D), the bill, if enacted, would amend existing notary law to provide for remote, online, and electronic notarial acts.

[Read more.](#)

**Energy Transition Act – Illinois.** On September 15, Gov. J.B. Pritzker signed a 1,000+ page comprehensive bill package into law, called the Energy Transition Act, and also referred to as the Climate and Equitable Jobs Act. This Democrat-sponsored measure, [SB 2408](#), creates a “pathway toward power sector decarbonization by 2045, creates equitable clean energy workforce development pathways and expands state commitments to energy efficiency, renewable energy and electric vehicles.” The Act aims to phase out fossil fuel energy sources by 2045, and mainly focuses on utility generation, which will be a blow mainly to the coal industry. According to reporting, “Illinois is the first state in the coal-heavy Midwest to commit to eliminating carbon emissions; the plan received some Republican support; and it includes programs to ensure economic and racial equity.”

According to the Midwest Energy Efficiency Alliance, “This legislation will usher in a new era of Illinois utility regulation, programming and power sector replacement moving Illinois toward broad decarbonization and equitable clean energy workforce development. Energy efficiency is essential to mitigate cost increases to ratepayers and to increase reliability and resiliency throughout the overhaul of Illinois’ energy system.” ([Read a bill provision summary here](#)) The Act has multiple effective dates. [Read more.](#)

**Oil and Gas Taxation – Ohio.** (*Update to 9/7/21 Weekly Report*) On September 15, SR 176 was adopted. Sponsored by Sen. Tim Schaffer (R), this Senate Resolution states that the Ohio General Assembly does “respectfully oppose federal policies that will increase the costs and taxes on the larger business community” and “urge[s] the Congress of the United States to fight any attempt to target the natural gas and oil industry by disproportionately increasing the tax burden, or by other punitive measures on the companies that are leading our post-pandemic recovery” and “That these attempts are negatively impacting the constituents of the districts we represent.” [Read more.](#)

**Plain Language in Oil and Gas Property Contracts – Pennsylvania.** On September 27, Rep. Joe Webster (D) introduced [HB 1914](#), which seeks to “establish plain language in oil and gas property contracts.” The bill seeks to impose standardization of terms and definitions in oil and gas instruments as well as readability standards which would invariably conflict with long-established and recognized industry instruments, such as leases. A version of this bill has been introduced every year by a Democrat member and they always fail to advance in the Republican-controlled General Assembly. No action has been taken on HB 1914 since its introductory referral to the House Environmental Resources & Energy Committee. [Read more.](#)

**High-Level Radioactive Waste – Texas.** (*Update to 9/7/21 Weekly Report*) On September 9, Gov. Greg Abbott (R) signed HB 7 into law. Sponsored by Rep.

Brooks Landgraf (R), this Second Special Session bill amends the Health and Safety Code to prohibit the issuance of certain permits by the Texas Commission on Environmental Quality for the construction or operation of a facility that is licensed to store high-level radioactive waste by the U.S. Nuclear Regulatory Commission. The bill would also prohibit the transport of high-level radioactive waste on the state’s highways or railways and prohibit the disposal or storage of high-level radioactive waste in the state other than storage at certain current or formerly operating nuclear reactors or test reactors. The Act takes immediate effect. [Read more.](#)

**Flaring – Texas.** (*Update to 9/7/21 Weekly Report*) HB 231, which was filed in the Second Special Session by Rep. Jon Rosenthal (D), failed to advance and died in session. The bill relates “to the establishment by the Railroad Commission of Texas (RRC) of a policy to eliminate the routine flaring of natural gas from wells or other facilities regulated by the commission.” Specifically, the bill would have provided for the elimination of routine flaring and would order the RRC to “establish a policy to eliminate before December 31, 2025, the routine flaring of gas from wells or other facilities regulated by the commission.” [Read more.](#)

## **[STATE – Regulatory](#)**

**Water Usage in Oil and Gas Operations – Colorado.** On October 1, the Colorado Oil & Gas Conservation Commission (COGCC) announced they will be holding a hearing and presentation on October 5 regarding water usage in oil and gas production. The public is invited to attend the virtual meeting. For those reading this report after the hearing date, the COGCC also makes their hearings available for later [viewing here](#). For a full agenda and instructions on accessing the event, [Read more.](#)

**Critical Infrastructure Operator Forms – Texas.** (*Update to 9/20/21 Weekly Report*) On September 29, the Texas Railroad Commission (RRC) announced that at its open meeting on September 28, the RRC “proposed three new forms related to the recently



proposed amendments to [16 TAC §3.65 and §3.107](#) regarding critical infrastructure designation pursuant to [Senate Bill 3](#) and [House Bill 3648](#) from the 87th Legislature (Regular Session).” Although operator related, AAPL is providing the proposed form amendments to members for their reference. The form amendments are: (1) Form CI-D, Acknowledgement of Critical Customer/Critical Gas Supplier Designation, would be submitted by an operator of a facility designated as critical acknowledging the facility’s critical status; (2) Form CI-X, Critical Customer/Critical Gas Supplier Designation Exception Application, would be submitted by an operator certifying a facility needs an exception to critical designation because the facility is not prepared to operate in a weather emergency; and (3) Table CCI, specifies the information that an operator is required to submit to electric entities for load shed prioritization. The public comment period is open through November 1, 2021. [Read more.](#)

## **STATE – Judicial**

### **Kern County Oil and Gas Production – California.**

On September 13, Kern County, California sued Gov. Gavin Newsom (D) in *County of Kern v. Newsom* (Case No. not yet docketed), charging the governor with violating the state constitution and disregarding numerous state laws regarding oil and natural gas production. According to the California Independent Petroleum Association (CIPA), “In short, Kern County believes that Governor Newsom has acted illegally in attempting to shut down oil production in California.” Specifically, the lawsuit states that “under his direction, the State’s executive branch has pursued an unmistakable pattern and practice of impeding, delaying and/or outright blocking the issuance of oil and gas permits in a manner that thwarts existing law and implements substitute policies never approved by the duly elected California State Legislature (‘Legislature’) in violation of Article III, section 3 of the California Constitution (referred to as the “Separation of Powers’ clause). To date this illegal, as well as arbitrary and capricious, activity has included, among other things,

firing a State official who dared to enforce the law contrary to Newsom’s professed ‘values,’ unilaterally seeking to ban or phase out statutorily authorized oil and gas production methods without any legislative authorization to do so, erecting a host of unauthorized arbitrary administrative roadblocks to indefinitely delay the California Geologic Energy Management Division’s (‘CalGEM’) statutorily-mandated review and issuance of statutorily authorized oil and gas permits, unilaterally deciding that California’s climate change planning process must encompass and include the planned elimination of all of California’s in-state oil and gas production, refusing to acknowledge or follow statutory mandates and CalGEM’s own regulations, having a Newsom political appointee/bureaucrat unilaterally decide that an undeclared ‘climate emergency’ justifies CalGEM’s rejection of such permits, and otherwise taking action Newsom has repeatedly acknowledged he lacks authority to take.” As noted by CIPA, “Seventy percent of California’s oil production occurs within Kern County, so the impact of the Governor’s current actions are most harmful [to] Kern County and its workforce. The governor has taken action to end hydraulic fracturing, cyclic steaming, and even using his regulators to begin denying current permits to drill without any justification.” The Newsom administration has yet to respond to the complaint. [Read more.](#)

### **Hazardous and Idle-Deserted Wells – California.**

*(Update to 9/20/21 Weekly Report)* On September 23, Gov. Gavin Newsom (D) signed SB 47 into law. Sponsored by Sen. Monique Limón (D), the Act increases the annual expenditure limit from the Oil, Gas and Geothermal Administration Fund, the principal source of funding for the Geologic Energy Management Division from a production fee assessed on oil and gas production in the state, for the plugging and abandonment of hazardous or idle-deserted wells to \$5 million. Assembly Amendments removed a provision to retain unspent funds, clarify the accounting of liens, require a report be annually updated and its sunset removed, and add chaptering out amendments. An identified section of SB 47 only

takes effect if [SB 84](#), which revises and enhances the legislative reporting requirements of the California Geologic Energy Management Division's idle oil and gas well program, is also enacted. SB 84 was presented to the governor on September 13, and must be signed or vetoed by October 10, 2021.

[Read more.](#)

**Retained Acreage; Leasing – Texas.** On August 25, in *Vermillion FC, LP v. 1776 Energy Partners, LLC* (Case No. 04-20-00089-CV), the Court of Appeals of Texas, Fourth District (San Antonio), addressed a dispute “related to the retention of certain acreage under the parties’ oil and gas lease” and specifically, “whether 1776 Energy breached the lease’s terms by, among other things, retaining excess acreage in the well tract and untimely filing a partial release of non-retained acreage under the lease, more than two years after 1776 Energy was supposed to file it as provided by the lease.” Vermillion had argued at trial that “the 320-acre well tract designated by 1776 Energy should have been 40 acres and that the lease terminated as to all other acreage.” Here, regarding multiple motions, the appellate court affirmed summary judgment for 1776 Energy on the untimely well-tract designation claim and as to the partial release claim. However, the court also reversed the trial court’s summary judgment for 1776 Energy on the well tract claim, concluding 1776 Energy was entitled to 280 acres, not 320 acres. The court also affirmed in part and reversed in part the trial court’s summary judgment for 1776 Energy on the option fee and release, affirming as to acreage outside the well tract, and reversing as to the 40 acres not properly included in the well tract that 1776 Energy did not properly release. Finally, the court remanded back to the trial court for further proceedings to determine what damages, if any, Vermillion is entitled to for 1776 Energy’s breach of relevant lease provisions.

[Read more.](#)

## INDUSTRY NEWS FLASH

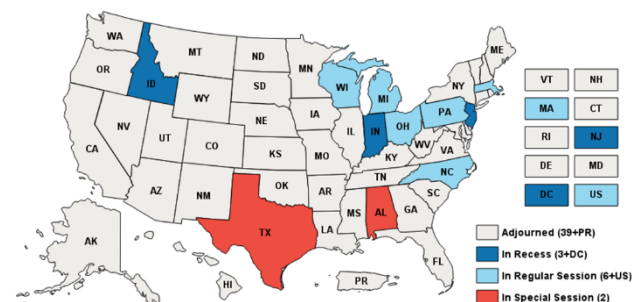
### ► Texas upstream employment continues to rise.

As reported by Rigzone on September 23, Texas upstream employment increased by 2,800 jobs as

of the latest monthly data (August) compared to revised June numbers, says the Texas Independent Producers and Royalty Owners Association (TIPRO). “TIPRO noted that Texas upstream employment in August 2021 represented an increase of 19,700 positions compared to August 2020. TIPRO outlined that this number reflected a rise of 18,500 jobs in the services sector and increase of 1,200 jobs in oil and natural gas extraction.” [Read more.](#)

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes:** Massachusetts, Michigan, North Carolina, Ohio, Pennsylvania, and Wisconsin are in regular session. The U.S. Congress is also in session.

The following legislatures are in recess until the dates provided: **Indiana** and **New Jersey** (TBD) and **Idaho** House (call of the speaker).

**Texas** Republican Gov. Greg Abbott called the legislature into a third special session on September 20 to focus on redistricting, restrictions on transgender student athletes, property tax relief, bail changes, the ongoing COVID-19 pandemic and penalties for illegal voting, reports [The Texas Tribune](#).

**Alabama** Republican Gov. Kay Ivey called the legislature into a special session on September 27 to vote on a prison construction plan that would use part of the state’s COVID-19 relief funds, reports [The Darien Times](#).

**Alaska** Republican Gov. Mike Dunleavy is scheduled to call the legislature into a fourth special session on

October 4, reports [Anchorage Daily News](#). This special session will focus on discussing Governor Dunleavy's new formula for paying dividends in the future and an act making appropriations for a supplemental 2021 Permanent Fund dividend. The previous special session allowed for a \$1,100 dividend beginning the week of October 11, but Governor Dunleavy has supported a \$2,350 payment.

**Iowa** Republican Gov. Kim Reynolds announced she is calling the legislature into special session on October 5 to begin the redistricting process, [Iowa Public Radio](#) reports.

**Tennessee** Republican Gov. Bill Lee announced in a [press release](#) that he will call the legislature into special session on October 18 to address funding, buildout and oversight of Ford Motor Company's \$5.6 billion investment at the Memphis Regional Megaseite.

**Georgia** Republican Gov. Brian Kemp will call the legislature into a special session on November 3 to begin the redistricting process, as reported by the [Atlanta-Journal Constitution](#).

**South Dakota** lawmakers are scheduled to convene for a special session on November 9 to consider Attorney General Jason Ravnsborg's impeachment, reports [The Grand Forks Herald](#).

**Oklahoma** Republican Gov. Kevin Stitt is scheduled to call the legislature into a special session on November 15 to address redistricting issues caused by the U.S. Census Bureau's delayed release of 2020 census data, reports [Tulsa World](#).

**Nebraska** adjourned their special session on September 30 after approving six redistricted maps, reports [News Channel Nebraska](#).

**Signing Deadlines** (by date): **California** Democratic Gov. Gavin Newsom has until October 10 to sign or veto legislation or it becomes law without signature. **Alaska** Republican Gov. Mike Dunleavy has 20 days after delivery, Sundays excepted, to sign or veto legislation or it becomes law without signature. **Illinois** Democratic Gov. J.B. Pritzker has 60 days from

presentment to sign or veto legislation or it becomes law without signature. **Nebraska** Republican Gov. Pete Ricketts has five days from presentment to sign or veto legislation, Sundays excepted, or it becomes law without signature.

The following states are currently holding 2022 interim committee hearings: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [Colorado](#), [Connecticut](#), [Delaware](#), [Florida House](#), [Georgia](#), [Hawaii](#), [Illinois](#), [Indiana](#), [Iowa](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Mississippi House](#) and [Senate](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [North Dakota](#), [Oregon](#), [Rhode Island](#), [South Carolina House](#) and [Senate](#), [Tennessee](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#) and [Wyoming](#).

The following states are currently posting 2022 bill drafts, pre-files, and interim studies: [Alabama](#), [Arkansas](#), [Iowa](#), [Florida](#), [Kentucky](#), [Oklahoma](#), [Tennessee](#), and [Utah](#). ■

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