

# GOVERNMENTAL AFFAIRS REPORT

## FEDERAL – Legislative

### **S. 4753 – Energy Permitting Reform Act of 2024.**

On July 22, Sen. Joe Manchin (I-WV) and Sen. John Barrasso (R-WY) introduced [S. 4753](#), known as the Energy Permitting Reform Act of 2024. The bipartisan bill, according to Sen. Manchin, “will strengthen American energy security by accelerating the permitting process for critical energy and mineral projects of all types in the United States.” Specifically, the bill “shortens timelines before, during, and after litigation on all types of federal authorizations for energy and mineral projects, without changing any existing rights to seek judicial review;” increasing production targets for renewable energy projects on federal lands; “accelerates leasing and permitting decisions for all types of energy projects on federal lands, without bypassing environmental and land-use laws;” requires offshore wind offshore oil and gas lease sales; and “sets a 90-day deadline for the Secretary of Energy to grant or deny LNG export applications following environmental reviews, with applications deemed approved if the Secretary fails to meet the deadline.” [Read a bill summary fact sheet here](#). Sen. Manchin said the bill “will speed up permitting and provide more certainty for all types of energy and mineral projects without bypassing important protections for our environment and impacted communities. The *Energy Permitting Reform Act* will advance American energy once again to bring down prices, create domestic jobs, and allow us to continue in our role as a global energy leader.” [Read more from law firm Jones Day here](#). The bill has been praised by industry stakeholders. Dan Naatz, IPAA chief operating officer, said the bill would “improve coordination, reduce permitting wait times, remove the LNG export ban and restore certainty to the Gulf of Mexico leasing process.” The bill was also [lauded by the API](#), saying, “this legislation not only takes tangible

steps toward a more transparent, consistent and timely permitting process, but also ends the administration’s misguided LNG export permit pause, strengthening American energy leadership while helping to reduce emissions worldwide. We applaud Senators Manchin and Barrasso for renewing bipartisan efforts to build the infrastructure needed for today and the future, and we call on Congress to take up this urgent priority.” [Read more](#). And on July 31, the U.S. Senate Committee on Energy & Natural Resources held a business meeting to consider the legislation and voted 15-4 to advance the bill. To access a full video recording of the meeting, [Read more](#). However, the bill prospects are uncertain for a favorable outcome this year. Law firm Holland and Hart writes, “The emergence of the bill is likely too late in the process given the limited number of legislative days remaining. If this legislation were to move, it would likely be in a lame duck session of Congress, where it will likely still face roadblocks. The outcome of the elections will also dictate the appetite for greenlighting permitting reform, something a new administration would like to take credit for.”

### **S. 4727 – Separation of Powers Restoration Act of 2024.**

On July 16, official text was made available for [S. 4727](#), known as the Separation of Powers Restoration Act of 2024, or SOPRA. Sponsored by Sen. Eric Schmitt (R-MO), the bill is described as “a major effort to retake legislative authority away from administrative agencies and place it back where it belongs: the Article I branch.” The bill was introduced in the wake of the recent U.S. Supreme Court decision in *Loper Bright Enterprises v. Raimond* (see more below) that overturned the long-standing federal administrative agency deference by courts. “The Supreme Court’s decision in *Loper Bright* was a critical blow to the disastrous *Chevron* deference standard and represents an opportunity to Congress to retake

legislative power from agencies and dismantle the administrative state,” said Sen. Schmitt. “For far too long, the deck has been stacked against citizens while these all-powerful alphabet soup agencies run roughshod.” [Read more.](#)

**House Natural Resources Committee Oversight Hearing on Gulf Coast Energy Production and Permitting.** On August 2, the U.S. House Committee on Natural Resources held an oversight hearing in Louisiana titled, “Rigs to Restoration: Examining Gulf Coast Restoration through Energy Production and Permitting.” According to the Committee, “The hearing will examine Louisiana’s experience in coastal restoration, including the barriers encountered through the permitting process and the shared relationship between energy production and environmental protection.” To access a full video recording of the hearing and witness testimony, [Read more.](#)

**House Administration Committee Hearing on a Post-Chevron Doctrine World.** On July 23, the U.S. House Administration Committee held a hearing, “Congress in a Post-Chevron World,” which addresses how the recent U.S. Supreme Court decision in [Loper Bright Enterprises v. Raimond](#) might affect the role of Congress. That case – which AAPL covered extensively in the July 8, 2024 governmental affairs report – overturned the long-standing *Chevron* doctrine, named for a 1984 case that set a precedent of courts showing rulemaking deference to federal agencies and which expanded their authority. “This is our opportunity to ask important questions about the structure of Congress, now that our role in the rulemaking process has been reestablished,” said House Administration Committee Chairman Bryan Steil (R-WI). “In the Loper Bright decision, the Supreme Court has provided a real opportunity for Congress to restore itself to the ‘people’s house’ once again.” [Read more.](#) To access a full video recording of the hearing and witness testimony, [Read more.](#)

**House Natural Resources Committee Hearing on Pending Energy Legislation.** On July 23, the U.S. House Committee on Natural Resources,

Subcommittee on Energy and Mineral Resources, held a legislative hearing on pending energy legislation. Specifically covered were the discussion draft of the “[Comprehensive Offshore Resource Evaluation Act](#)” or the “CORE Act”; [H.R. 7053](#), “Orphan Well Grant Flexibility Act of 2024”; [H.R. 8665](#), “Supercritical Geothermal Research and Development Act”; and [H.R. 8954](#), the “Public Lands Renewable Energy Development Act of 2024.” Testifying witnesses included energy industry stakeholders and Jim Wright, Commissioner of the Texas Railroad Commission. To access a full video recording of the hearing and witness testimony, [Read more.](#)

**Congressional Letter Demanding LNG Export Approvals.** On July 30, a bipartisan group of congressional lawmakers delivered a letter to Jennifer Granholm, Secretary of the U.S. Department of Energy, criticizing the administration’s pause on LNG export approvals and demanding expedited approvals for permits. [Read the letter here.](#) Rep. Jodey Arrington (R-TX), co-chair of the House Energy Export Caucus, said, “Since his first day in office, President Biden has launched a unilateral assault on American oil and gas, choking the lifeblood of our economy, crushing consumers with high energy costs, and sending oil production overseas — enriching our adversaries like Russia and China. Thankfully, Biden’s ban on American LNG export permits was blocked. Yet, his administration is still dragging its heels on approving these permits in an attempt to placate the far-Left. It’s critical that the DOE swiftly approve stalled export permit applications to strengthen our economy, bolster our energy security, and restore American energy dominance.” [Read more.](#)

**U.S. Congress in August Recess.** The U.S. Congress is currently in its annual August recess with lawmakers returning to Washington, DC on September 9, 2024. [Read more.](#)

## [FEDERAL – Regulatory](#)

**BLM Solar Development Projects.** On July 25, the Bureau of Land Management (BLM) announced it “is advancing nine solar projects on public lands that could

potentially power nearly 2 million homes with clean energy. The projects will support President Biden's goal of creating a carbon pollution-free power sector by 2035." According to the BLM, the agency "has permitted more than 25 gigawatts of clean energy projects – surpassing a major milestone ahead of 2025 – enough clean energy to power more than 12 million homes across the country. This includes solar, wind and geothermal projects, as well as gen-tie lines on public lands that are essential for connecting clean electricity projects on both federal and non-federal land to the grid." Dr. Steve Feldgus, U.S. Department of the Interior Principal Deputy Assistant Secretary for Land and Minerals Management said, "The Interior Department is playing a pivotal role in helping tackle the climate crisis, boost the clean energy economy and provide communities across the nation with clean, reliable energy. With today's advancement of nine solar energy projects on public lands, we are taking a significant step towards these efforts and President Biden's ambitious clean energy goals." [Read more.](#)

## **FEDERAL – Judicial**

**Surface Use; Leasing – Ohio.** Recently, in *EOG Resources, Inc. v. Lucky Land Management, LLC* (Case No. 2:23-cv-4232), an Ohio federal court ruled in favor of an oil and gas company regarding a surface use dispute with the landowner. For background, "This case involves an oil and gas lease that gives EOG mineral rights to property; Lucky owns the surface rights to that property. EOG wishes to access the surface of Lucky's property to recover oil and natural gas from under the property, as well as from under adjacent properties using horizontal drilling. After Lucky refused EOG access to the property, EOG brought this lawsuit." Here, the court upheld a prior preliminary injunction in favor of EOG, writing in part, that "there is a public interest in enforcing contracts, including the oil and gas leases at issue." And "[e]ven though the Court agrees with Lucky that this case involves novel legal issues, Lucky fails to articulate why the novelty of the legal issues, or why increased media attention and landowner interest in the case, warrants staying the preliminary injunction." [Read more.](#)

## **STATE – Legislative**

### **Carbon Capture and Sequestration – Illinois.**

On July 18, Gov. J.B. Pritzker (D) signed [SB 1289](#) into law. The bipartisan bill, known as the Safety and Aid for the Environment in Carbon Capture and Sequestration Act, creates new development and monitoring guidelines for carbon capture and sequestration projects, "a move to incentivize investment in the state while propping up environmental protections," according to reporting by *Bloomberg Government*. The bill specifically sets forth provisions regarding "ownership and conveyance of pore space; integration and unitization of ownership interests; surface access for pore space owners; compensation for damages to the surface; and additional landowner rights." The bill also sets regulations that include "requiring new carbon sequestration facilities to obtain a state permit with requirements for monitoring during and after carbon sequestration, as well as rules around financial assurances, insurance, emergency management, and closure plans. The law places a two-year moratorium on new pipelines, a timeline which could be shortened if the Pipelines and Hazardous Materials Safety Administration finalizes crucial safety regulations." Gov. Pritzker said, "It is a testament to the ingenuity of this group that we conceived and passed this legislation while prioritizing the health and safety of our people, catalyzing job growth and investment in our economy, and protecting our air, water, and soil." The Act takes immediate effect. [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**

**Climate Reporting Law Delay – California.** Governor Gavin Newsom (D) has proposed amendments to two 2023 bills to "delay by two years compliance with the

emissions reporting and climate-related financial risk reporting requirements in California's *Climate Accountability Package*. Initial compliance would be delayed to 2028 for emissions reporting and climate-related financial risk reporting (with parallel delays in the schedule for assurance requirements), and the Governor's amendments would make other limited changes, including flexibility to consolidate reporting at the parent company level." [Read more](#). The 2023 mandatory climate disclosure laws – [SB 253](#) and [SB 261](#) – “apply to all companies doing business in California and earning more than \$500 million in revenue.” As reported, the “proposed delay is meaningful. It indicates that Governor Newsom and his administration recognize the significant burden that California's mandatory climate disclosure imposes on companies, and that they are cognizant and at least somewhat responsive to the concerns raised by businesses in connection with this law.” [Read more](#).

## **STATE – Judicial**

### **Forced Pooling; Railroad Commission – Texas.**

On June 28, in [Ammonite Oil & Gas Corp. v. Railroad Commission of Texas](#) (Case No. 21-1035), the Texas Supreme Court upheld an appellate court ruling “affirming the denial of an oil and gas producer’s applications to force pool its interest with an adjacent mineral owner.” For background, the Texas Supreme Court case summary provides, “At issue in this case is whether one oil-and-gas company’s forced-pooling offer to another, which included a 10% risk penalty, was unreasonably low under the Texas Mineral Interest Pooling Act. EOG Resources drilled sixteen wells on a riverbed tract based on drilling permits it received from the Railroad Commission. EOG’s wells surrounded a seven-mile portion of the riverbed leased by petitioner Ammonite Oil & Gas Corp. Concerned that its mineral interested would be essentially stranded, Ammonite sent a series of letters to EOG proposing the formation of sixteen voluntarily pooled units, including a 10% risk charge to cover the economic risks assumed in drilling the wells. EOG rejected the offer. Ammonite then sought to force-pool its riverbed tracts with EOG’s wells. The Railroad Commission rejected Ammonite’s applications,

finding that Ammonite’s offers to EOG were not ‘fair or reasonable’ as required by the Mineral Interest Pooling Act. Ammonite petitioned for judicial review in the trial court, which affirmed the Commission’s order. The court of appeals did the same. Ammonite petitioned for review to the Supreme Court, arguing that nothing in the plain text of [the] MIPA even requires that a risk penalty be included in a voluntary-pooling offer, so a low-risk penalty (or even the absence of one) cannot render an offer statutorily unreasonable.” Here, the Texas Supreme Court held that “Ammonite has failed to show that forced pooling of its acreage with EOG’s wells is necessary to prevent its minerals from ultimately being lost. Ammonite applied for a share of EOG’s revenue without contributing to it. The Commission’s conclusion that forced pooling would not prevent waste or protect correlative rights is not unreasonable.” [Read more](#).

### **Oil, Gas, and Mineral Interest Jurisdiction – Texas.**

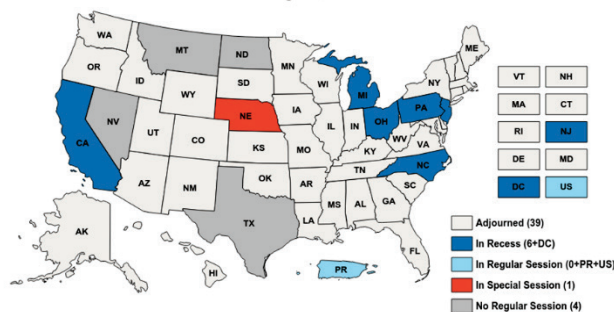
Recently, in *Bauer v Braxton Minerals III, LLC* (Case No. 02-23-00269-CV), the Texas Court of Appeals, Second District (Fort Worth), addressed a dispute in which Braxton alleged that “Appellants failed to comply with their representations and contractual obligations to transfer oil, gas, and mineral interests (collectively mineral interests) to BM3 [Braxton Minerals III, LLC] in West Virginia, resulting in BM3 not owning the mineral interests to such properties and not receiving royalty payments for production from the properties.” Here, the court first noted “the basic principle that Texas courts have no jurisdiction to adjudicate title to real property in other jurisdictions.” The court wrote, “Because Appellants had to prove their rightful ownership of the mineral interests to prevail on their damage counterclaim, the trial court would be required to determine rightful ownership of the West Virginia mineral rights, which it did not have jurisdiction to adjudicate. The trial court was therefore without jurisdiction to render any judgment but dismissal for want of jurisdiction.” Accordingly, the court dismissed all claims for a lack of jurisdiction.” [Read more](#).

## INDUSTRY NEWS FLASH

► **Biden Administration replenishes the Strategic Petroleum Reserve.** As reported by *The Hill* on July 29, “the Biden administration says it has replenished the 180 million barrels of oil it withdrew from the nation’s Strategic Petroleum Reserve in response to high prices following Russia’s invasion of Ukraine.” The U.S. Department of Energy “announced a 4.65 million barrel purchase, bringing the total purchased since the 2022 drawdown up to more than 40 million barrels. In addition, the administration has worked with Congress to cancel 140 million barrels in planned sales — accounting for the rest of the 180 million.” [Read more.](#)

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes:** California, Michigan, Ohio, and Pennsylvania are in regular session. The U.S. Congress is in August recess.

**Nebraska** began a special session on July 25 to address property taxes. According to the [Associated Press](#), legislators have introduced bills that aim to reduce property taxes through a variety of possible avenues, including increases in goods subject to sales tax or legalizing marijuana to increase revenue. Public hearings will be held for proposed bills before legislators decide which bills to act upon.

**Signing Deadlines** (by date): **Alaska** Republican Gov. Mike Dunleavy has 20 days from presentment, excluding Sundays, to act on legislation or it becomes

law without signature. **Illinois** Democratic Gov J.B. Pritzker has 60 days from presentment to act on legislation or it becomes law without signature. **Tennessee** Republican Gov. Bill Lee has 10 days from presentment, excluding Sundays, to act on legislation or it becomes law without signature.

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

The following states are currently posting 2024 bill drafts, pre-files and interim studies: [Alabama](#), [Nebraska](#), [Nevada](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#) and [Utah](#). ■

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