

GOVERNMENTAL AFFAIRS WEEKLY REPORT

Weekly Highlights At-A-Glance

FEDERAL – Legislative

H.R. 5253 – Fossil Free Finance Act. On September 14, Rep. Mondaire Jones (D-NY) introduced [H.R. 5253](#), known as the Fossil Free Finance Act. The bill would amend “the Bank Holding Companies Act to require the Federal Reserve to mandate, via regulation or guidance, that all bank holding companies with more than \$50 billion in assets align their financing of greenhouse gas emissions and deforestation risk commodities with science-based emissions targets.” ([Read full bill summary here](#)) The bill seeks alignment with emissions reductions obligations under the Paris Climate Agreement and according to The Hill, “orders the Fed to take unprecedented steps meant to steer financial support away from oil, gas, coal and companies by unraveling banks who refuse to comply.” Specifically, under the bill, “banks with more than \$50 billion in assets must develop plans to reduce 50 percent of the carbon emissions they finance by 2030 and 100 percent of their financed carbon emissions by 2050; end new and expanded fossil fuel-related projects after 2022; end the financing of all fossil fuel projects after 2030; and halt thermal coal financing after 2024.” [Read more.](#)

H.R. 5193 – Just Transition for Energy Communities Act. On September 7, Rep. Teresa Leger Fernández (D-NM) introduced [H.R. 5193](#), known as the Just Transition for Energy Communities Act. The bill “would provide resources to help state and Tribal governments that are reliant on fossil fuel development, production, and utilization to diversify and grow their economies.” According to the bill sponsor, approximately 30% of the state revenue in New Mexico comes directly from oil and gas revenue and 90% of education funding is derived from revenue related to fossil fuels, so the bill would seek

to provide federal payments in its place. Specifically, the bill establishes a U.S. Treasury Department program “to provide payments to states and Tribes to support these communities’ transition and economic diversification efforts.” The bill also prohibits “the funding from being used to further fossil fuel development” and would authorize “\$5 billion over 10 years, with a \$500 million set-aside for tribes.” [Read more.](#)

Proposed Methane Fees. On September 7, Sen. Kevin Cramer (R-ND) wrote to House Speaker Nancy Pelosi (D-CA) and Senate Majority Leader Chuck Schumer (D-NY) voicing his opposition to the reconciliation budget package, and specifically a proposal to enact a methane fee on oil and gas facilities. Sen. Cramer wrote, that “as a member of the Senate Environment and Public Works Committee, I am particularly concerned with the proposed fee on methane emissions from oil and natural gas facilities. This punitive plan, based on the Methane Emissions Reduction Act of 2021, would assess an escalating \$1,800 per-ton fee on businesses based on their share of activity in a particular geologic basin versus a company’s actual emissions.” Cramer continued, that “this policy is only one of many set to harm U.S. energy producers in my state of North Dakota, as well as New Mexico, Pennsylvania, Texas, Colorado, and West Virginia, among others.” AAPL has also delivered a letter of opposition to these methane fees, and other adverse budget proposals targeting our profession. You can [find this letter signed by the AAPL President James T. Devlin, CPL](#), on our website. [Read more.](#)

Methane Fee Opposition Letter to Congress. If you have not already seen this posting on the AAPLConnect Governmental Affairs Network ([See more here](#)), on September 7, AAPL joined

the American Petroleum Institute (API) and 130 energy, manufacturing, business and labor trade organizations across the natural gas and oil supply chain [in a letter](#) sent to the U.S. Senate Committee on Environment and Public Works “opposing legislation that would place a fee on methane. The organizations, led by API, explain that the proposal is a ‘pay-for’ that ‘could jeopardize affordable and reliable energy with likely little reduction in greenhouse gas (GHG) emissions’ and that cost-effective regulation is a better approach.” [Read more.](#)

FEDERAL – Regulatory

National Petroleum Reserve – Alaska. On September 7, the Biden administration filed a legal copy of a memorandum from the Interior Department’s Principal Deputy Assistant Secretary, Land and Minerals Management, Laura Daniel-Davis, to Bureau of Land Management staff directing the evaluation of the National Petroleum Reserve in Alaska (NPR-A) [Final Integrated Activity Plan Environmental Impact Statement \(2020 IAP/EIS\)](#) developed under the Trump administration. This action begins the BLM’s reevaluating plans “to offer up nearly 18.6 million acres of the western Arctic, known as the National Petroleum Reserve-Alaska. Its initial review indicates the plan is inconsistent with President Biden’s [Executive Order 13990](#) — Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis.” According to the Center for Biological Diversity, “The announcement states that other alternatives to the plan may be more appropriate, although it does not specify what those alternatives are. The bureau says it has not yet decided whether to withdraw or replace the plan.” Environmental groups believe this action may be the beginning phase of the BLM withdrawing the Trump administration’s approval of NPR-A resource development. [Read more.](#)

BLM Onshore Oil and Gas Operations and Production Information Collection Notice. On September 17, the Bureau of Land Management (BLM) published a notice of information collection, “Agency Information Collection Activities; Onshore

Oil and Gas Operations and Production” ([86 Fed. Reg. 51912](#)), that seeks public input on certain information collection activities related to onshore oil and gas operations and production. This is an extension of a currently approved BLM information collection, and the public comment period is open through October 18, 2021. [Read more.](#)

BLM Solar Energy Development Notice – Utah.

On September 10, the BLM published a “Notice of Competitive Offer for Solar Energy Development on Public Lands in Beaver County, Utah” ([86 Fed. Reg. 50738](#)). With the notice, the BLM will accept competitive bids to lease public lands for solar energy projects on approximately 4,836 acres within the Milford Flats South Solar Energy Zone in Beaver County, Utah, through a competitive solar lease offer. The competitive solar lease offer will be held at 1 p.m. on November 9, 2021. Sealed bids must be received by the BLM Cedar City Field Office on or before 10 a.m. MST on November 9, 2021. [Read more.](#)

BLM Color-of-Title Notice. On September 7, the BLM published a notice of information collection, “Agency Information Collection Activities; Color-of-Title Application” ([86 Fed. Reg. 50160](#)). The notice seeks public comment on information collection activities conducted by the BLM regarding the validity of claims under the Color-of-Title Act. The public comment period is open through October 7, 2021. [Read more.](#)

BOEM Gulf of Mexico Lease Sale. On September 7, the Interior Department’s Bureau of Ocean Energy Management (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.](#)

Office of Natural Resources Revenue Notice.

On September 10, the Office of Natural Resources Revenue (ONRR) published a notice of information collection, "Agency Information Collection Activities: Royalty and Production Reporting" ([86 Fed. Reg. 50742](#)). Per the ONRR, through this information collection, "ONRR seeks renewed authority to collect information used to verify, audit, collect, and disburse royalty owed on oil, gas, and geothermal resources produced from Federal and Indian lands." Public comments may be submitted through November 9, 2021. [Read more.](#)

FEDERAL – Judicial

Independent Contractors – Fifth Circuit (Texas).

On July 30, in *Sanchez Oil & Gas Corp. v. Crescent Drilling & Production, Inc.* (Case No. 20-20304), the United States Court of Appeals, Fifth Circuit, on appeal from the U.S. District Court for the Southern District of Texas, addressed a case where Sanchez was sued by a subcontractor, who claimed to be an employee of a contractor, for alleged violations of the Fair Labor Standards Act (FLSA). Crescent had hired the subcontractor and Sanchez filed a third-party complaint alleging breach of contract for Crescent's failure to indemnify Sanchez and failure to comply with the FLSA. The district court denied Sanchez's motion for summary judgment and granted Crescent's. Here, the Fifth Circuit found "material fact issues as to whether Langen was an 'independent contractor' or otherwise exempt from the FLSA." Langen performed a variety of roles, ranging from Production Foreman to Flowback Supervisor and billed Crescent at a day rate. This case arose over Crescent's demands that Sanchez indemnify them for Langen's claims. In sum, the Fifth Circuit concluded that their "reading of the parties' MSA [Master Services Agreement] holds that, for Sanchez to obtain indemnification for the Langen settlement and its defense costs for that lawsuit, Sanchez has to prove that Langen's suit 'resulted from' Crescent's 'breach' of its duty to pay Langen in accord with the FLSA. It is also necessary to decide whether Crescent unreasonably withheld consent to the

Sanchez-Langen settlement. Material fact issues exist as to both of these aspects of the relevant FLSA indemnity provisions." As such, the Fifth Circuit remanded the case back to the district court for further findings. [Read more.](#)

STATE – Legislative

Orphan, Idle, and Abandoned Wells – California.

(*Update to 1/11/21 Weekly Report*) On September 7, SB 84 passed both chambers of the California State Legislature. Sponsored by Sen. Melissa Hurtado (D), the bill, if signed into law, "revises and enhances the legislative reporting requirements of the California Geologic Energy Management Division's idle oil and gas well program and related matters." ([Read full bill summary here](#)) Specifically, the bill requires the Division supervisor to provide "the process the supervisor has established to determine that the current operator does not have the financial resources to fully cover the cost of plugging and abandoning the well or the decommissioning of deserted production facilities, or for a previous operator. The bill would require the supervisor to, in a timely manner, post the materials provided to the legislative committees on a public portion of the division's internet website." The bill also provides for specific idle well reporting and reporting the location of hazardous wells, idle-deserted wells, deserted facilities, and hazardous facilities remaining, and "criteria for determining the priority of plugging and abandoning hazardous or idle-deserted wells and decommissioning hazardous or deserted facilities to be remediated." Gov. Gavin Newsom (D) must sign or veto bills by October 10, 2021. [Read more.](#)

Hazardous and Idle-Deserted Wells – California.

On September 9, SB 47 passed both chambers of the legislature. Sponsored by Sen. Monique Limón (D), the bill 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. SB 47 is only given effect if SB 84 (above) is enacted. Gov. Gavin Newsom (D) must sign or veto bills by October 10, 2021. [Read more.](#)

Critical Wells – California. (*Update to 2/22/21 Weekly Report*) On September 10, SB 406 passed both chambers of the legislature. Sponsored by Sen. Henry Stern (D), the bill states that “Existing law requires the operator of a well to file a written notice of intention to commence drilling with, and prohibits any drilling until approval is given by, the State Oil and Gas Supervisor or district deputy. Existing law requires the notice to contain the pertinent data the supervisor requires on printed forms supplied by the division or on other forms acceptable to the supervisor. This bill would require the form for the notice to clearly identify whether the well is a critical well, as defined.” [Read more.](#)

Idle and Deserted Wells – California. (*Update to 3/22/21 Weekly Report*) On September 8, AB 896 passed both chambers of the legislature. Sponsored by Asm. Steve Bennett (D), the bill provides for collection of unpaid idle well fees from an operator; establishes timelines and criteria for determining if a well has been deserted; and for locating or collecting any costs from the operator or responsible party for a well that has been deserted or ordered to undergo well integrity testing or to be plugged and abandoned by the state regulator. Gov. Gavin Newsom (D) must sign or veto bills by October 10, 2021. [Read more.](#)

Emissions Reductions – California. In a victory for our profession, AB 1395 died in the legislative session ended September 10, 2021. The bill, sponsored by Asm. Al Muratsuchi (D), would have mandated the California Air Resources Board establish new climate goals to achieve 90% greenhouse emission reductions by 2045. According to the California Independent Petroleum Association (CIPA), “the bill would have led to massive reductions in new housing construction, agriculture production, energy, transportation,

and all manufacturing. It was an extraordinarily aggressive goal that would have required large-scale transformation of California’s entire economy, on top of the changes and costs that have already occurred to implement California’s current first-in-the-nation climate program.” CIPA notes that “AB 1395 would have upended the entire regulatory process, setting entirely new and unreasonable goals.” [Read more.](#)

Royalty Valuation – Pennsylvania. On August 5, Rep. Eric Davanzo (R) introduced HB 1763. The bill would amend the state Oil and Gas Lease Act to define “royalty.” According to the bill sponsor, the legislation arises from a 2010 state Supreme Court decision case inquiry into royalty valuation. Rep. Davanzo asks, “What is royalty? Traditionally natural gas was both measured and sold at the wellhead. With changes in industry practices and the implementation of local gathering systems, there has been confusion as to: 1) where natural gas volume is measured for production subject to royalty, and 2) where the sale price of gas is set for calculation of royalty.” His bill “will define the place of measurement of volume (the mouth of the well) and the sale price (the point of sale to an unaffiliated 3rd party buyer). It is essential to note that this bill will not change terms of any contract. It is critical to Pennsylvania landowners and industry representatives that the definition of terms used in contracts is precise and just; this legislation will provide assurance that the two parties can work together in furtherance of this important industry.” [Read more.](#)

STATE – Regulatory

Natural Gas Critical Infrastructure – Texas.

On September 14, the Texas Railroad Commission (RRC) announced it is accepting public comment on proposed new rule [16 Texas Administrative Code \(TAC\) §3.65](#), relating to Critical Designation of Natural Gas Infrastructure, and proposed amendments to [16 TAC §3.107, relating to Penalty Guidelines for Oil and Gas Violations](#), which were proposed at their open meeting the same day.

According to the RRC, “The proposed rules implement a process for designating certain natural gas entities as critical during an energy emergency as specified in legislation passed in the 87th Regular Legislative Session. The new rule section in §3.65 would “specify the criteria and process by which entities associated with providing natural gas in Texas are designated as critical customers or critical gas suppliers during an energy emergency.” The amendments to §3.107 relate to implementing §3.65. The public comment period is open through November 1, 2021. To access the public comment portal, scroll down to “Chapter 3. Oil and Gas – 1 Proposed” and use the provided link. [Read more.](#)

Los Angeles County Drilling Phaseout – California.

On September 15, the Los Angeles County Board of Supervisors unanimously voted to end new oil and gas drilling and to phase out existing drilling infrastructure in the county as part of their motion, [Protecting Communities Near Oil and Gas Drilling Operations in Los Angeles County](#). According to the Hill, this could potential close “nearly 2,000 sites” in the “unincorporated L.A. County area [which] contains some 1,600 active and idle wells” per the motion. “Most of these are part of the Inglewood Oil Field, the biggest urban oilfield in the U.S.” [Read more.](#)

RRC Production Report for Pending Leases Data Set – Texas. On September 9, the Texas Railroad Commission announced that “[b]eginning in September 2021, the Railroad Commission of Texas (RRC) [Production Reports for Pending Leases data set will feature four new fields](#). The addition of the new fields is in response to the recent revisions to the instructions to the Form PR, Monthly Production Report, and support the RRC’s regulation of flaring and venting of produced natural gas.” Those fields are: 1) Gas disposition code 10 (flare) volume; 2) Gas disposition code 10 remark; 3) Gas disposition code 11 (vent) volume; and 4) Gas disposition code 11 remark. The RRC notes that “Any original or corrected production filed for August 2021 and prior months will still use the disposition code 4.” [Read more.](#)

STATE – Judicial

Deeds; Oil and Gas Rights – Pennsylvania. On June 21, in *Jenkins v. P.P. & V Corp.* (Case No. 692 WDA 2020), the Superior Court of Pennsylvania addressed a dispute over whether P.P. & V. conveyed oil and gas rights to successors in title, including the plaintiffs. The trial court unanimously determined that two deeds, when read together, transferred the oil and natural gas rights to the plaintiffs. Here, the Superior Court agreed and affirmed the lower court decision. The Court applied the state’s *Dunham* rule, which holds that if, in connection with a conveyance of land, there is a reservation, or an exception of minerals without any specific mention of, natural gas or oil, a presumption, rebuttable in nature, arises that the word “minerals” was not intended by the parties to include natural gas or oil. To rebut the presumption established in *Dunham* that natural gas or oil is not included within the word “minerals” there “must be clear and convincing evidence that the parties to the conveyance intended to include natural gas or oil within such word.” Reading the two deeds at issue together, one of which referenced all rights owned by the grantor and the other specifically referring to oil and natural gas rights, the Court found “no room for doubt” that the conveyances included oil and gas rights. [Read more.](#)

INDUSTRY NEWS FLASH

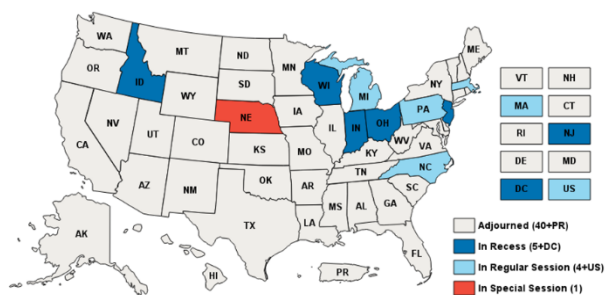
► **Energy Department says U.S. can get 40% of its electricity from solar energy by 2035.** The U.S. Department of Energy’s [Solar Futures Study](#) shows “how solar energy can help decarbonize the U.S. power grid and help achieve a Biden administration goal of net zero emissions in the electricity sector by 2035.” The study proposes how the country can transition to a carbon-free electric grid and solar energy’s role in those efforts. [Read more.](#)

► **BLM headquarters moving back to Washington, DC.** On September 17, the Interior Department announced that BLM headquarters, which moved to Colorado during the Trump administration, will

move back to Washington, DC, while maintaining the Colorado office as its “Western headquarters.” According to the Hill, “Data released by the Biden administration earlier this year indicated that more than 87 percent of the agency’s employees based in D.C. left the agency after the Trump administration’s announcement that it would relocate the office.” [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



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

The following legislatures are in recess until the dates provided: U.S. House (September 20), Ohio (September 22), Wisconsin (September 28), Indiana (TBD), and Idaho House (call of the speaker).

Alaska adjourned its third special session on September 13. According to [The Alaska Journal of Commerce](#), Republican Gov. Mike Dunleavy has announced he will not veto the recently passed permanent fund dividend and will call the legislature back for a fourth special session beginning October 1.

The **California** legislature adjourned on September 10.

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.

The **South Carolina** Senate will convene for a special

session beginning on October 12, reports the [Ledger Enquirer](#). The purpose of the special session is to focus on redistricting and allocating COVID-19 relief funds.

Nebraska convened on September 13 for a special session, reports [The Lincoln Journal Star](#). The purpose of the special session will be redistricting the boundaries of Supreme Court judicial districts, Public Service Commission districts, Board of Regents of the University of Nebraska districts, state Board of Education districts, legislative districts, and congressional districts.

Texas Republican Gov. Greg Abbott called for a third special session to focus on redistricting, restrictions on transgender student athletes and the ongoing COVID-19 pandemic, reports [The Texas Tribune](#). This special session is scheduled to meet on September 20.

Signing Deadlines (by date): **Alaska** Republican Gov. Mike Dunleavy has 20 days after delivery, Sundays excepted, to sign or veto legislation or it becomes law without signature. **California** Democratic Gov. Gavin Newsom has 30 days to sign any bill that was passed by the legislature prior to adjournment but delivered after adjournment 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. **Kansas** Democratic Gov. Laura Kelly has 10 calendar days from presentment, not including the day it was presented, to sign or veto legislation or it becomes law without signature. **Maine** Democratic Gov. Janet Mills must act on legislation presented within 10 days of adjournment or it becomes law unless returned within three days after the next meeting of the same legislature. **Nebraska** Republican Gov. Pete Ricketts has five days from presentment to sign or veto legislation, Sundays excepted, or it becomes law without signature. **New York** Democratic Gov. Kathy Hochul has 10 days from presentment, Sundays excluded, to sign or veto legislation or it is pocket vetoed. **South Carolina** Republican Gov. Henry McMaster has five days from

presentment, excluding Sundays, to act on legislation or it becomes law without signature. **Tennessee** Republican Gov. Bill Lee has 10 days starting the day after presentment, Sundays excluded, to sign or veto legislation 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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