AMERICAN EXPLORATION & PRODUCTION COUNCIL

# Board Meeting

April 11, 2024

April 5, 2024

Dear Board of Directors:

We look forward to seeing everyone in Oklahoma City next week to discuss our work to advance AXPC's strategic goals, policy priorities and preparation for the 2024 election cycle.

It has been an eventful start to the year, and we've been working to advance our priorities while reacting and responding to changing events. On top of our advocacy work, we are excited to share with you the learnings gathered from the research portion of our strategic planning process and look forward to presenting you with a draft of our strategic plan. Our agenda also includes a regulatory, government affairs and a communications update, as well as a political briefing that will show the groundwork we are laying for the 2024 election cycle. We have many exciting developments in the works and look forward to sharing them with you.

We appreciate everyone joining the meeting ready to engage in discussion among friends and peers. Before our meeting, we encourage you all to review the Board and appendix materials in advance. We look forward to seeing you all in Oklahoma City next week.

Sincerely,

Anne Bradbury
President & CEO
American Exploration and Production Council

# Table of Contents

# Schedule of Events

## WEDNESDAY, APRIL 10, 2024

### AXPC Reception

Who: Board of Directors, AXPC Members, Friends of AXPC
When: 5:00-6:30PM CT
Where: The National, *Mint Room*
120 N Robinson Ave
Oklahoma City, OK 73102
<u>NOTE:</u> We invite staff to stay past 6:30PM, when we will continue the gathering and provide additional food and drinks for dinner.

### AXPC Board of Directors Dinner

Who: AXPC Board of Directors
When: 6:30PM CT
Where: The National, *Beacon Room*
120 N Robinson Ave
Oklahoma City, OK 73102

## THURSDAY, APRIL 11, 2024

### Board of Directors Meeting

When: 7:30AM CT: Breakfast
8:00-3:00PM CT: Board Meeting
Where: Chesapeake Energy, Building 12 - Maple Room (above cafeteria)
6100 N Western Ave
Oklahoma City, OK 73116

### Shuttles

When: *(Please meet in lobby)*
1st - 7:00AM CT
2nd – 7:10AM CT
Pickup: The National
120 N Robinson Ave
Oklahoma City, OK 73102

## Board of Directors Meeting Attendees

**April 11th | Oklahoma City, OK**

*Please note that all Board Members will be accompanied by a staffer.* * Proxy

| | |
|---|---|
| John J. Christmann IV | Apache Corporation |
| Jeff Fisher | Ascent Resources |
| Eric Greager | Baytex Energy |
| Nick Dell'Osso | Chesapeake Energy Corporation |
| Danny Brown | Chord Energy |
| Chris Doyle | Civitas Resources |
| Nick Olds | ConocoPhillips |
| Thomas E. Jorden | Coterra Energy Inc. |
| Richard Muncrief | Devon Energy |
| Travis D. Stice | Diamondback Energy, Inc. |
| Rusty Hutson | Diversified Energy |
| Hardy Murchison | Encino |
| Ian Dundas | Enerplus Resources |
| Pamela Roth | EOG Resources, Inc. |
| Toby Rice | EQT Corporation |
| * Alex Mistri | Hess Corporation |
| Greg Lalicker | Hilcorp Energy |
| * Bill Buese | Jonah Energy |
| Lee Tillman | Marathon Oil Corporation |
| Ken Waits | Mewbourne Oil Company |
| * Shea Loper | Ovintiv, Inc. |
| * John Bell | Permian Resources Corporation |
| Rich Dealy | Pioneer Natural Resources Company |
| Chris Valdez | PureWest Energy |
| Dennis Degner | Range Resources |
| Justin Loweth | Seneca Resources |
| Herb Vogel | SM Energy Company |
| * Chris Weikle | Southwestern Energy Company |
| Jason Pigott | Vital Energy |
| Barton Cahir | XTO Energy |

# American Exploration and Production Council Antitrust Policy

Effective December 2023

The purpose of this Policy is to assist employees, officers, directors, members, and consultants of the American Exploration and Production Council (AXPC) comply with the requirements of federal, state, and local antitrust laws. This Policy applies to all activities of the AXPC and its employees, officers, directors, members, and consultants.

Statement of Policy

It is the policy of the AXPC to comply fully with all federal, state, and local antitrust laws, including the following:

1. Section 1 of the Sherman Act, prohibiting contracts, combinations, and conspiracies in restraint of trade.
2. Section 2 of the Sherman Act, prohibiting monopolization, attempts to monopolize, or conspiracies to monopolize.
3. Section 5 of the Federal Trade Commission Act, prohibiting unfair methods of competition.
4. The District of Columbia Antitrust Act and other state or local antitrust laws, which contain similar prohibitions as the Sherman and FTC Acts.

Required Meeting Procedures

All AXPC meetings should:

1. Begin by reading the AXPC Antitrust Statement for Meetings.
2. Follow a prepared agenda.
3. Where appropriate, include a copy of this Antitrust Policy in meeting materials.
4. Where appropriate, include antitrust counsel.

All meetings – whether formal or informal – involving members or competitors shall be conducted according to the requirements of this Antitrust Policy.

Antitrust Guidelines

AXPC employees, officers, directors, members, and consultants **shall not** engage in discussions or exchanges of information that involve:

1. Non-public pricing terms, including discounts, terms of sale, credit terms, or margins.
2. Plans to enter or exit markets, or other strategic plans.
3. Customers, prospective customers, or markets served.
4. Costs, wages, terms of employment, or plans regarding employees.
5. Plans to increase or decrease output or capacity.

AXPC employees, officers, directors, members, and consultants **shall not** engage in discussions or agree to:

1. Set prices, pricing terms, output, capacity, market shares or other terms of competition.
2. Divide or allocate markets, customers, products, or services.
3. Exclude or otherwise disadvantage competitors or potential competitors.
4. Set wages, terms of employment, or agree not to employ certain employees or groups of employees.

AXPC employees, officers, directors, members, and consultants **shall**:

1. Follow this Policy at all times, whether in or outside of formal AXPC meetings.
2. Ensure that all meetings are conducted according to a prepared agenda.
3. Object to any discussions or meetings that appear to violate this Policy, ask that the meeting minutes reflect your objection, and leave or suspend the meeting if necessary.
4. Raise any antitrust concerns with the President and CEO or counsel.
5. Be conservative and refrain from any discussions or conduct that may be improper.

This Policy is intended to provide general guidance on complying with federal, state, and local antitrust laws. Not every situation can be anticipated. If you have any questions or concerns about a specific situation or compliance with this Policy, please reach out to the President and CEO or counsel.

**###**

# Board Meeting Agenda

**April 11, 2024**
**8:00 a.m. – 3:00 p.m. CT**
**in Oklahoma City, OK and Via Video/Tele-Conference**

| | | |
|---|---|---|
| 7:30 a.m. | Breakfast | |
| 8:00 a.m. | Call to Order and Appointment of Meeting Secretary | Travis Stice, Diamondback |
| 8:05 a.m. | Business Session<br>• Safety Moment<br>• Antitrust Caution<br>• Welcome<br>• Approve Minutes of November 2023 Meeting*<br>• Treasurer's Report<br>• 2024 Meeting Dates Overview | <br>Matt Garner, Chesapeake<br><br><br><br>Mike DeStefano, Lane CPA<br> |
| 8:30 a.m. | CEO Update | Anne Bradbury |
| 8:45 a.m. | Strategic Plan Presentation | Anne Bradbury<br>McKinley Advisors |
| 10:00 a.m. | Break | |
| 10:15 a.m. | Regulatory Policy Update | Wendy Kirchoff<br>Rebecca Denney |
| 11:15 a.m. | Government Affairs Update | Troy Lyons |
| 12:00 p.m. | Break for Lunch | |
| 12:30 p.m. | Communications | Mark Bednar |
| 1:00 p.m. | Political Briefing | Team AXPC |
| 2:00 p.m. | Adjourn | |
| 2:00 p.m. | Executive Session | |

**Items requiring Board approval.*

# AXPC Board Meeting Minutes

November 30, 2023

**ATTENDANCE:**

Kevin Ellis, Antero Resources Corporation; John J. Christmann IV, Apache Corporation; Jeff Fisher, Ascent Resources; Eric Greager, Baytex Energy; Joe Gatto, Callon Petroleum; Nick Dell'Osso, Chesapeake Energy Corporation; Danny Brown, Chord Energy; Chris Doyle, Civitas Resources; Nick Olds, ConocoPhillips; Thomas E. Jorden, Coterra Energy Inc.; + Craig Bryksa, Crescent Point Energy Corp.; *Jeff Wilson, Devon Energy; Travis D. Stice, Diamondback Energy, Inc.; Rusty Hutson, Diversified Energy; Hardy Murchison, Encino; * Wade Hutchings, Enerplus Resources; Pamela Roth, EOG Resources, Inc.; * Courtney Loper, EQT Corporation; * Spencer Kerr, Hilcorp Energy; * Alex Mistri, Hess Corporation; Tom Hart, Jonah Energy; Lee Tillman, Marathon Oil Corporation; Ken Waits, Mewbourne Oil Company; Brendan McCracken, Ovintiv, Inc.; Will Hickey, Permian Resources Corporation; Rich Dealy, Pioneer Natural Resources Company; Chris Valdez, PureWest Energy; Dennis Degner, Range Resources; Justin Loweth, Seneca Resources; Herb Vogel, SM Energy Company; *Chris Weikle, Southwestern Energy Company; Jason Pigott, Vital Energy; *Kelly Coppola, XTO Energy;

* Indicates Board Proxy
\+ Indicates Virtual

Not present: Gulfport Energy Corp

**CALL TO ORDER AND BUSINESS SESSION:**

AXPC Chair and Marathon President and CEO Lee Tillman opened the meeting by providing the anti-trust statement, appointing Rebecca Denney as meeting secretary, and welcoming new Board Member (Eric Greager, Baytex).

Carolyn Quinn provided emergency procedures.

Lee walked through the meeting agenda, acknowledged a quorum and made a motion to approve the minutes from the July meeting. The motion was approved via voice vote.

Lee proposed two nominations: Travis Stice as Chair of the Board of Directors and Hardy Murchison to the Executive Committee. Both nominations were approved by a voice vote. Lee also recognized Tom Jorden for his leadership and service to AXPC as he steps off of the Executive Committee.

Anne thanked Lee for his service during his tenure as the Chair of the Board of Directors as he is now stepping down.

Lee introduced Mike DeStefano, from Lane CPA, for the treasurer's report. Mike provided AXPC's treasurer report, including the advocacy fund, the organization's financial position, and the cash reserves.

Anne presented AXPC's 2024 budget. Lee moved to approve the budget, motion was approved by a voice vote.

**CEO UPDATE**

Anne shared the AXPC update and a year look-back including highlights from 2023 highlights and the status of AXPC's 2023 goals.

Anne then shared 2024 organizational priorities and goals including a strategic planning effort. Lee moved to approve the 2024 priorities and goals, motion approved by voice vote.

Anne teed up the discussion for the remainder of the meeting by sharing the political, regulatory, and social context going into 2024.

**GOVERNMENT AFFAIRS UPDATE**

Troy Lyons presented an update on government affairs.

**REGULATORY UPDATE**

Wendy Kirchoff shared the regulatory priorities for 2024.

**RULEMAKING UPDATE**

Wendy Kirchoff and Rebecca Denney shared updates on key rulemakings for the industry including the Methane Rule (OOOOb/c), Subpart W, and the SEC Climate Disclosure Rule.

**GUEST SPEAKER:** *Honorable Steve Scalise, Discussion Moderated by Lee Tillman, Marathon*

Lee Tillman hosted a discussion about US energy policy with Congressman Steve Scalise.

**ESG UPDATE**

Rebecca Denney shared the strategy and priorities of AXPC's ESG Committee for 2024.

**GUEST SPEAKERS:** *Honorable Mike Carey & Vicente Gonzalez, Discussion Moderated by Troy Lyons, AXPC*

Congressman Carey and Congressman Gonzalez discussed the importance of bipartisanship and cooperation and highlighted topics and opportunities for future collaboration across the aisle.

**POLITICAL UPDATE**

Carolyn Quinn shared an update on AXPC's political efforts and the PAC funding and goals.

**ADJOURNMENT**

Lee thanked the group for their attendance and participation, and thanked Carolyn Quinn for her contributions to AXPC during her tenure. The Executive Committee collectively wished Carolyn all the best of luck in her new role. Lee then adjourned the November Board Meeting and moved into Executive Session.

# Business Session

AXPC

FINANCIAL STATEMENTS

For The Three Months Ended

March 31, 2024

# AXPC
# Statement of Financial Position
# March 31, 2024

## ASSETS

| | | |
|---|---|---|
| Cash and cash equivalents | $ | 10,280,958 |
| Tenant improvement receivable | | 233 |
| Prepaid expenses | | 2,332 |
| Furniture and equipment, net | | 39,940 |
| ROU asset - office space lease | | 497,497 |
| Security deposit | | 22,156 |
| Deferred compensation plan asset | | 83,736 |
| **Total Assets** | $ | 10,926,852 |

## LIABILITIES AND NET ASSETS

| | | |
|---|---|---|
| Liabilities | | |
| Accounts payable and accrued expenses | $ | 633,537 |
| Lease liability | | 605,381 |
| Deferred compensation plan liability | | 83,736 |
| **Total Liabilities** | | 1,322,654 |
| Net Assets | | |
| Net assets without donor restrictions | | 9,018,250 |
| Net assets without donor restrictions - Advocacy Fund | | 585,948 |
| **Total Net Assets** | | 9,604,198 |
| **Total Liabilities and Net Assets** | $ | 10,926,852 |

These financial statements, prepared by Lane & Company, CPAs, were not subject to an audit or other assurance services. Management has elected to omit substantially all required audit disclosures.

# AXPC
## Statement of Activities - Actuals vs. Budget
## For the Three Months Ended March 31, 2024

| Revenue and Support | Without Donor Restrictions | Advocacy Fund | Total | Budget to Date | |
|---|---|---|---|---|---|
| Membership dues | $ 6,100,000 | $ 500,000 | $ 6,600,000 | $ 6,800,000 | **A** |
| Supplemental assessment | 1,440,000 | - | 1,440,000 | 1,500,000 | **B** |
| Interest income | 51,955 | - | 51,955 | 41,250 | |
| **Total Revenue and Support** | 7,591,955 | 500,000 | 8,091,955 | 8,341,250 | |
| **Expenses** | | | | | |
| Personnel and related | 632,326 | - | 632,326 | 650,570 | |
| Travel and professional development | 132,360 | - | 132,360 | 86,750 | **C** |
| Professional services and fees | 39,670 | - | 39,670 | 49,125 | |
| Office rent, leases and maintenance | 28,733 | - | 28,733 | 32,054 | |
| Government affairs | 148,929 | - | 148,929 | 158,750 | |
| Communications | 17,721 | - | 17,721 | 78,750 | **D** |
| Regulatory | 185,457 | - | 185,457 | 193,750 | |
| Membership | 37,630 | - | 37,630 | 40,000 | |
| Supplemental assessment expenses | 166,452 | - | 166,452 | 462,500 | **E** |
| Advocacy Fund expenses | - | 130,873 | 130,873 | 175,000 | **F** |
| Miscellaneous | 3,297 | - | 3,297 | 3,300 | |
| **Total Expenses** | 1,392,575 | 130,873 | 1,523,448 | 1,930,549 | |
| **Change in Net Assets** | 6,199,380 | 369,127 | 6,568,507 | $ 6,410,701 | |
| **Net Assets, Beginning of Period** | 2,818,870 | 216,821 | 3,035,691 | | |
| **Net Assets, End of Period** | $ 9,018,250 | $ 585,948 | $ 9,604,198 | | |

**Variance Explanations**

**A** Dues revenue is under budget due to a dues payment to be received.

**B** Supplemental assessment revenue is under budget due to a dues payment to be received.

**C** Travel and professional development is over budget due to upfront payments for subscriptions and conferences. The monthly allocation of the annual budget will catch up with the actuals over time.

**D** Communications is under budget due to consulting expenses to be incurred.

**E** Supplemental assessment expenses are currently under budget due to issue advocacy expenses that will be incurred later in the year.

**F** Advocacy Fund is under budget due to timing of costs to be incurred.

# AXPC
# Cash Reserves, Advocacy Fund, and Supplemental Assessment
# March 31, 2024

## Cash Reserves

| | | |
|---|---|---|
| **Cash and cash equivalents, March 31, 2024** | $ | 10,280,958 |
| **Plus:** | | |
| Dues to be received | | 250,000 |
| Budgeted interest income to be received | | 113,045 |
| **Less:** | | |
| Accounts payable and accrued expenses to be paid | | (633,537) |
| Budgeted expenses to be incurred | | (7,319,032) |
| **Projected cash reserves, December 31, 2024** | $ | 2,691,434 |
| **2024 budgeted operating expenses*** | $ | 6,772,480 |

*Operating expenses are determined as total 2024 budgeted expenses, less accounts that management deems as off-ramps that can be reduced as operationally needed. As of 3/31/2024, there are approximately 5 months of operating expenses in year-end cash reserves.

## Advocacy Fund Spending

| Spending Category | | Actuals | | Committed | | Totals |
|---|---|---|---|---|---|---|
| Communications | $ | 18,373 | $ | 15,000 | $ | 33,373 |
| Consulting | | 47,500 | | 47,500 | | 95,000 |
| Content creation | | - | | - | | - |
| Coalitions | | 50,000 | | - | | 50,000 |
| Political | | - | | - | | - |
| Grassroots | | 15,000 | | - | | 15,000 |
| **Totals** | $ | 130,873 | $ | 62,500 | | 193,373 |
| | | | | **Beginning of year funding** | | 716,821 |
| | | | | **Remaining balance** | $ | 523,448 |

## Supplemental Assessment Spending

| Spending Category | | Actuals | | Committed | | Totals |
|---|---|---|---|---|---|---|
| Grassroots Engagement | $ | 87,500 | $ | 67,500 | $ | 155,000 |
| Issue Advocacy | | - | | - | | - |
| Consulting + Compliance | | 25,000 | | 125,000 | | 150,000 |
| Regulatory | | 53,952 | | 103,125 | | 157,077 |
| **Totals** | $ | 166,452 | $ | 295,625 | | 462,077 |
| | | | | **Total Supplemental Assessment budget** | | 1,850,000 |
| | | | | **Remaining balance** | $ | 1,387,923 |

These financial statements, prepared by Lane & Company, CPAs, were not subject to an audit or other assurance services. Management has elected to omit substantially all required audit disclosures.

# Key Dates

## 2024 Board of Directors Meetings

**June 12-13**

Board Member Fly-In

Washington, DC

**August 8-9**

Board Dinner and Meeting

Houston, Texas

*The Houstonian*

**November 20-21**

Board Dinner and Meeting

Washington, DC

# Executive Fly-In

**June 12 + 13**

## Speakers From The Past

- Leader McConnell
- Secretary Granholm

## 2024 Confirmed Meetings

- Senator Thune Dinner
- DOE Deputy Secretary Turk

## Areas of Focus for 2024

- LNG pause
- Regulations
- Relationship building

# Strategic Plan Draft Presentation

# Strategic Plan Draft Discussion

April 11, 2024

AXPC AMERICAN EXPLORATION & PRODUCTION COUNCIL

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## AXPC Strategic Planning Phases and Timeline

Engagement with AXPC senior leadership team – Ongoing

| Interviews | Executive Committee Engagement | Survey Questionnaire | Facilitated Strategy Session | Strategic Plan Development and Delivery |
|---|---|---|---|---|
| February | Ongoing | March | April | April |
| Interviews with all board members to uncover industry dynamics and member value | Check-ins and updates with key milestones | A survey to all member company contacts to uncover member value and needs | Working session to collaboratively develop the strategic priorities and objectives | Final strategic plan to the Board for discussion and approval |

*Current Focus*

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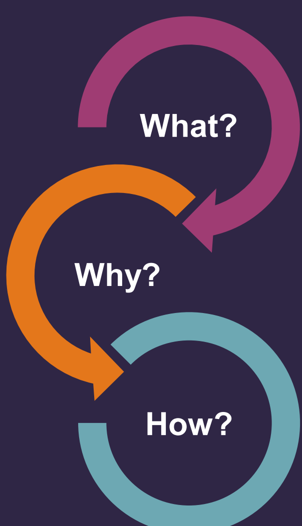
# Strategic Planning Elements Defined

## Strategic Planning, Simplified




- First: What **COULD** we pursue given our current environment?
- Next: Why **SHOULD** we pursue certain priorities (and not others)?
- Last: What **WILL** we accomplish and how can we best get there?

**Mission** — What you do and for whom

**Strategic Priorities** — Enduring themes or focus areas that drive AXPC towards the mission

**Objectives** — Action-oriented statements of intent that support the strategic priorities; specific accomplishments to pursue over the plan horizon.

**Outcomes** — What AXPC aspires to achieve through the plan — impact on association, members, industry

STRATEGIC INITIATIVES (to come later): Time-bound projects, programs and activities that are developed, funded and monitored to meet performance targets.

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# Research Findings

Board Interviews

Member Survey

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## Interview Summary

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| **Policy** | **Awareness** | **Member Value** | **Growth** | **Resources** |
| AXPC delivers on public policy — prepare to sustain and broaden capacity and impact | Consider AXPC's role, reach, and resources in public awareness and education | Member value perception is off the charts — preserve the unique culture and high level of engagement | Discuss growth in member dues and membership numbers, especially to counter industry consolidation | Ensure that AXPC is well resourced (staffing and funding) to take on evolving challenges |

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## AXPC's Public Policy Effectiveness

### Strengths

- Connections and reach in Congress
- Responsiveness to industry challenges; focus on priorities
- Proactive approach in identifying and mitigating risks
- Keeping members informed and prepared

### Growth Opportunities

- Continue to develop stronger bipartisan relationships
- Grow influence with regulatory agencies and engage in comments on rulemaking
- More offense than defense on the legislative front
- Educate policymakers on industry value

McKinleyAdvisors 24

## Awareness & Impact – Priority Needs

**There is an urgent need to…**

- Change the narrative around fossil fuels
- Tell the story of the oil and gas industry's contributions to energy security, economic growth, and environmental stewardship
- Counter misinformation and misperceptions of the industry with data and facts
- Create a more informed understanding of the complex realities of energy transition and potential impacts



## Value of AXPC Membership

**Advocacy, Engagement, Networking**

- Strong voice for independent producers (with responsiveness to all issues raised)
- Best ROI for member dues compared to other industry trade associations
- Tremendous and unmatched impact of advocacy work
- Member companies save on policy staffing expenses (don't need their own DC teams)
- One member, one voice — equity and inclusion for all, regardless of company size
- Direct involvement of CEOs enables rapid decision making and commitment at highest level
- Ability to network and get quality face time with other sector CEOs in exclusive settings

## Options for Future Member Dues

While it is acknowledged that member contributions need to increase to sustain AXPC's activities and effectiveness — especially in the face of reduced numbers from M&A — there is a desire to preserve AXPC's unique structure and advantages over other industry trade associations.

| Fund Special Initiatives | Raise Member Dues | Move to Tiered Dues |
|---|---|---|
| *PRO* Members are always willing to pitch in with more funds when needed. | *PRO* Dues increase while keeping dues same for all members aligns with AXPC culture. | *PRO* Helps to counter impact of ongoing industry consolidation. |
| *CON* Does not allow members to plan and budget. Very time-consuming for AXPC. | *CON* Smaller companies may not be able to afford big increases; this limits growth for AXPC. | *CON* Will need work to safeguard culture of equity regardless of contribution level |



## Survey Findings

**Challenges**
The biggest challenges facing the industry include government support or opposition for domestic oil and gas production as well as increasing regulatory pressure.

**Mission & Future Direction**
Respondents believe AXPC's mission reflects what their company wants and is appropriate given the trends and challenges facing the industry. Increased focus on advocating for fewer/more targeted policy issues is a priority.

**Member Experience**
Respondents reported an extremely high level of satisfaction with their company's membership experience. AXPC strengths include industry benchmarking, in-person events, and committee work.

**Competitive Landscape**
Outside of AXPC, respondents most often turn to the American Petroleum Institute (API) for federal policy resources. However, AXPC continues to be the go-to for many resources and services, that are highly rated.

# Consider New Member Categories

While new member categories can bring additional resources and strengthen AXPC's voice, there is concern they could threaten AXPC's niche focus and equitable governance structure (one member, one vote). Any new members should be able to contribute revenue as well as sweat equity.

**Midstream companies**

**Land owners**

**Service providers to current member companies**



# Survey Overview

**Project Immersion**
January 2024

**Electronic Survey**
March 2024

**Survey Data Analysis**
March 2024

**Deliver Analysis**
April 2024

The survey launched on March 4, 2024 and closed on March 19, 2024 after fielding for 15 days. The survey was fielded to all member company staff serving on AXPC committees.

| | Overall |
|---|---|
| **Total responses** | 87 |
| *Completes* | *42* |
| *Partials* | *45* |
| **Deliveries** | 466 |
| **Response rate** | **18.7%** |

# Association Leadership & Resources

## Strengths

- Outstanding CEO who continues to deliver results
- “Small but mighty” team, lean model
- High level of member loyalty and satisfaction
- Members’ willingness to supplement funds based on needs

## Concerns

- Excessive dependence on a high-performing CEO without backup
- High burn rate for staff
- Staff retention and recruitment in a competitive job market
- Pressure on members from sweat equity model
- Lack of a streamlined approach to acquiring funds for special initiatives



# Member Satisfaction (Benchmarked)

**Overall, how satisfied are you with your company’s AXPC membership?**
n=46; Base: All respondents

| | |
|---|---|
| AXPC: | **93% satisfied** |
| Trade Assoc. Average (n=29): | **86% satisfied** |


**AXPC respondents report a high level of satisfaction with their company’s AXPC membership**. 93% were very satisfied (63%) or somewhat satisfied (30%) with their membership. This falls well above the trade association average of 86%*.

*Data collected from trade associations since 2020

# Valuable Initiatives

**Over the past 5 years, what three AXPC initiatives or deliverables have been the most valuable/impactful?**
n=34 open-ended responses

***Key Themes***

**Advocacy**
Regulatory engagement, PAC, Congressional fly-ins, expanding bi-partisan support

ESG Support / Guidance

Strategy / Policy Communication

Benchmarking

Tax Priorities / Policies

Peer Engagement

Climate Disclosure Agreement

**Advocacy is the most valuable or impactful imitative reported by AXPC members.** They valued all levels of advocacy – regulatory guidance, legislative engagement with key decision-makers, PACs, and subject specific efforts (Energy security, climate / environmental, fossil fuel tax).

Respondents also highly valued efforts and support for ESG guidance as well communications for strategy and policy.



# Top Consequential Priorities

**What is the single most consequential priority AXPC could focus on to impact its member companies and the industry at large in the next 3-5 years?**
n=50; Base: All respondents

***Top 6 shown***

## Competitive Organization Resources

**Considering the resources you turn to, which one:**
n=34; Base: All respondents

| | AXPC | Another trade association | Another organization | Unsure/not applicable |
|---|---|---|---|---|
| Provides the best, most up-to-date industry information / news | **70%** | 6% | 6% | 18% |
| Provides the best advocacy for the policy issues my company cares most about | **68%** | 12% | 9% | 12% |
| Provides the best overall membership benefits | **59%** | 12% | 3% | 26% |
| Provides the most valuable meeting content | **56%** | 19% | 3% | 22% |
| Provides the best opportunities for knowledge exchange/sharing of best practices | **55%** | 18% | 3% | 24% |
| Has the most impactful political activity | **53%** | 24% | 6% | 18% |
| Provides the best networking opportunities | **52%** | 24% | 6% | 18% |
| Generates the most impactful external communications strategy | **52%** | 27% | 6% | 15% |
| Provides the best industry research/data/benchmarks | **50%** | 19% | 3% | 28% |
| Has the most impactful ESG committee | **48%** | 15% | 6% | 30% |
| Has the most impactful regulatory policy committees | **47%** | 22% | 0% | 31% |
| Has the most impactful legislative committees | **45%** | 12% | 0% | **42%** |
| Has the most impactful board related activities | **44%** | 15% | 3% | **38%** |



# Strategic Plan Draft for Discussion

## Mission

AXPC is the voice of the leading independent US energy producers. We promote the inherent value of American-made oil and natural gas.

We educate and advocate for responsible upstream development and constructive federal solutions with policymakers, industry partners, and the media. We actively support our members' commitment to continuous improvement.

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## Strategic Priorities

| | |
|---|---|
| **Public Policy Influence & Capacity** | Expand AXPC's ability to advance federal public policy that enhances energy security and the responsible exploration and production of domestic oil and natural gas |
| **Awareness & Education** | Highlight the US oil and natural gas industry's profound contributions to the economy, global security, commitment to sustainable operations, and accountability for addressing environmental challenges and risks |
| **Membership Value** | Continue to provide the forum for independent US energy producers to connect, share expertise and learnings, and pursue continuous improvement |
| **Organizational Excellence** | Enhance AXPC's business model to ensure continuity in leadership, depth of expertise, and adequate financial resources in an era of rapid change and increasing competition |

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## Public Policy Influence & Capacity

### Strategic Objectives

- Advance and support the oil and gas industry by monitoring federal policymaking and related industry issues to determine where and how AXPC can achieve maximum impact
- Advocate for oil and gas exploration and production by influencing favorable federal legislation and nurturing strong bipartisan relationships in the U.S. Congress
- Drive effective regulatory policies that allow upstream development and innovation, by building greater expertise and deeper connections with federal agencies



## Public Policy Influence & Capacity

### Strategic Outcomes

- Members have pertinent, timely information on key policy developments impacting industry
- Improved outcomes and mitigation of risks on key federal policy
- Strategic, constructive, bipartisan engagements with Congress and regulators to improve awareness and knowledge of the upstream oil and gas sector and ensure that the sector's voice is heard on relevant policy issues

## Awareness & Education

**Strategic Objectives**

- Continuously educate policymakers on the economic and societal contributions of the oil and gas industry and its commitment to safety and protecting the environment
- Establish AXPC as a go-to media resource for highly credible data and expert spokespersons on identified priority issues impacting the upstream energy sector
- Equip AXPC members with tools, data and messaging to educate and gain grassroots support from their workforce, local representatives and the communities they serve
- Partner with other energy organizations and sectors that benefit from domestic oil and natural gas development, to grow awareness of the industry's unique contributions



## Awareness & Education

**Strategic Outcomes**

- Pertinent data and information shared with federal policymakers and stakeholders through meaningful interactions
- Rapid media outreach/response on critical issues and federal policy developments that impact the industry
- Measurable growth in awareness and sentiment among targeted audiences on key issues
- Deployment of AXPC-provided materials and messages by member companies
- Strategic growth of established partnerships with identified organizations to increase awareness

## Membership Value

**Strategic Objectives**

- Expand meetings and connection forums to enable networking, sharing of best practices, and advancing industry thought leadership
- Enhance industry benchmarking and the education and guidance offered to members on ESG issues
- Continue to track and summarize regulatory updates for members to support compliance
- Sustain and improve strong member communications on industry news and trends as well as internal policy discussions by AXPC board and committees

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## Membership Value

**Strategic Outcomes**

- Increase in learning and networking opportunities, with higher member engagement and participation
- Continued member satisfaction with the value of industry benchmarks and regulatory updates and guidance provided by AXPC
- Sustained overall member satisfaction with AXPC, with established process for feedback and response

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## Organizational Excellence

**Strategic Objectives**

- Review member dues and governance model in the light of growing industry consolidation and increased expectations of AXPC members
- Develop a long-term recruitment and retention plan to supplement the work of current executive team, broaden expertise and experience, and retain talent
- Define, achieve and maintain indicators for long-term organizational health and scalability
- Review the role of AXPC committees and align the structure with current industry issues and policy priorities

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## Organizational Excellence

**Strategic Outcomes**

- Exploration of a new membership model to achieve long-term growth and sustainability for AXPC
- 90% retention rate for senior staff for 4 years from date of hire
- Review and strengthen the operating budget and reserves

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AMERICAN EXPLORATION & PRODUCTION COUNCIL

# Regulatory Policy Update

# Federal Rulemakings
## Dynamics and Strategy

### Drivers
- Ambitious Agenda
- Climate 'Urgency'
- 4th Year – Last Year
- Election Politics
- Global Pressures

+

### Limits
- Staff Turnover and Shortages
- (Non-Climate) Funding
- Court Rulings
- Election Politics
- CRA Deadline

=

### Policymaking
- Inefficient Processes
- Hyper Climate Focus
- Ambitious but Poor Quality
- Conflicting / Duplicative
- (Potentially vulnerable)

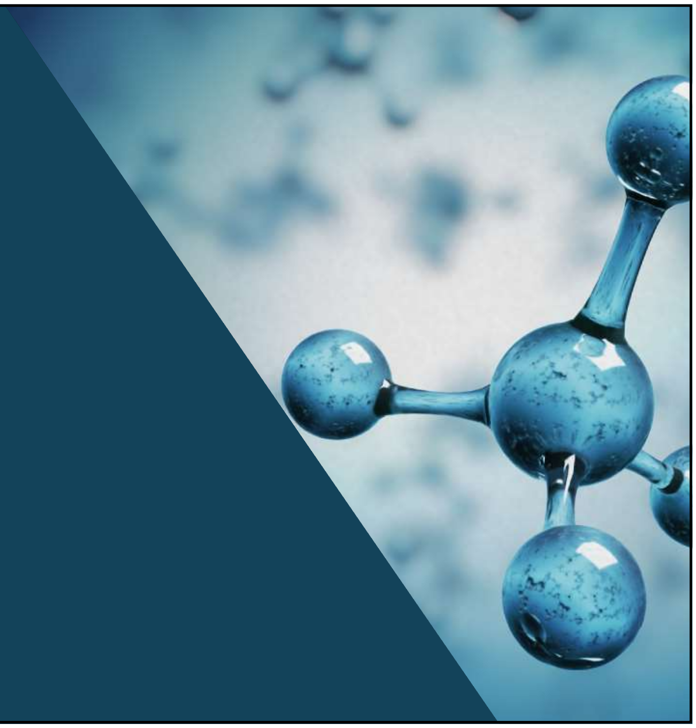
### Our Strategy
- Build relationships
- Solution-oriented
- Support with data
- Multi-level engagement
- Enhance legal review

# Federal Rulemakings Estimated Timeline

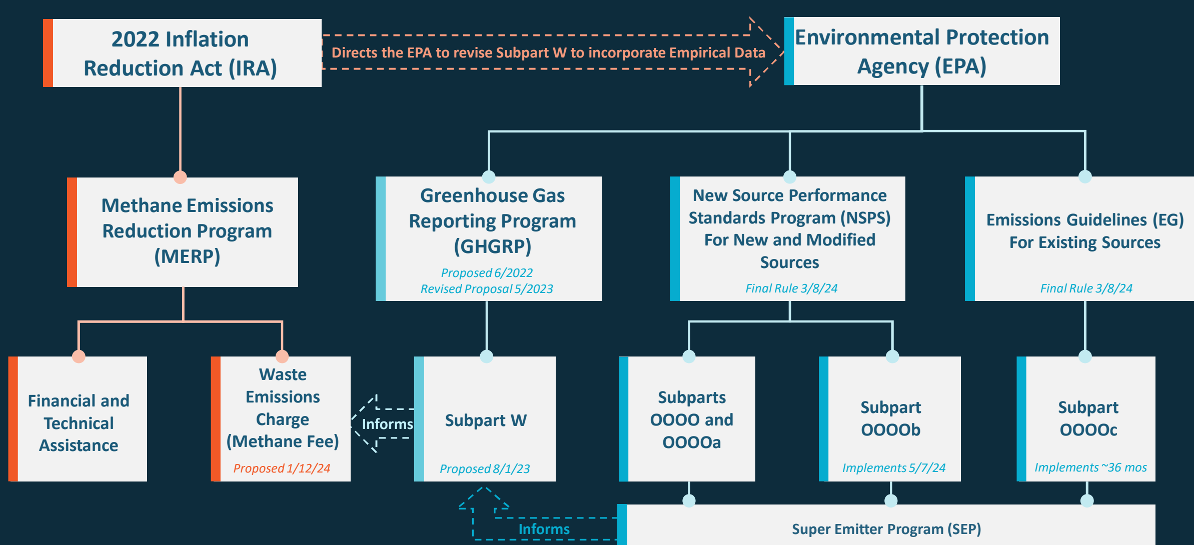
| Issues | Status Notes | Next phase | Jan | Feb | Mar | April | May | June | TBD? |
|---|---|---|---|---|---|---|---|---|---|
| **EPA Methane Rule - OOOObc** | FR Publication 3/8/24 | Final Rule | | | | | | | |
| **SEC Climate Disclosure** | FR Publication 3/28/24 | Final Rule | | | | | | | |
| BLM Waste Prevention | Final Rule pre-released 3/27/24 | Final Rule | | | | | | | |
| FWS ESA Regulations | FR Publication 3/27/24 | Final Rule | | | | | | | |
| **BLM Conservation Public Lands** | Sent to OMB 12/7/23 | Final Rule | | | | | | | |
| **CEQ NEPA Phase 2** | Sent to OMB 1/23/24 | Final Rule | | | | | | | |
| BLM Fluid Mineral Leasing | Sent to OMB 1/22/24 | Final Rule | | | | | | | |
| **EPA GHGRP Revisions - Subpart W** | Sent to OMB 3/5/24 | Final Rule | | | | | | | |
| *CRA Lookback Deadline - current estimate is May 22, 2024* | | | | | | | | | |
| **EPA GHGRP Revisions - Subpart B, etc.** | Comments submitted 7/21/23 (API) | Final Rule | | | | | | | |
| **CEQ NEPA GHG Guidance** | Submitted comments 3/10/23 | Final Guidance | | | | | | | |
| USACE Nationwide Permit 12 | | Proposed Rule | | | | | | | |
| **EPA Waste Emissions Charge** | NPRM Published 1/12/24 | Final Rule | | | | | | | |
| ***Dropped off the Administration's Unified Regulatory Agenda*** | | | | | | | | | |
| BLM Site Security and Measurement | Likely pushed to 2025 | Proposed Rule | | | | | | | |
| OSHA PSM - Enforcement Discretion | Pre-Rule stage | Proposed Analysis | | | | | | | |

*Updated 4/4/24*

# Emissions and Methane



## An Untangling: MERP-WEC, OOOOb/c, and Subpart W



## NSPS OOOOb / EG OOOOc - Current Status

*Updated 3/27/24*

*"Methane Rules"*

- **Final rule published in Federal Register – March 8th**
- **New or Modified Sources - rule largely effective 60 days after publication – May 7th**
  - For sources constructed or modified after the December 6, 2022
  - Some sections have phased implementation timelines
- **Existing Sources - states must implement Emissions Guidelines (EG) <36 months**
  - States must submit plans to EPA for approval within 24 mos.
  - EPA has 12 mos. to approve or disapprove
  - States must implement plan within 36 mos. of plan submittal
- **Under Clean Air Act, rule challenges must be filed w/in 60 days publication – May 7th**
- **Stay / delay options limited outside of court granting relief**



## Evaluation of Final NSPS OOOOb / EG OOOOc

*"Methane Rules"*

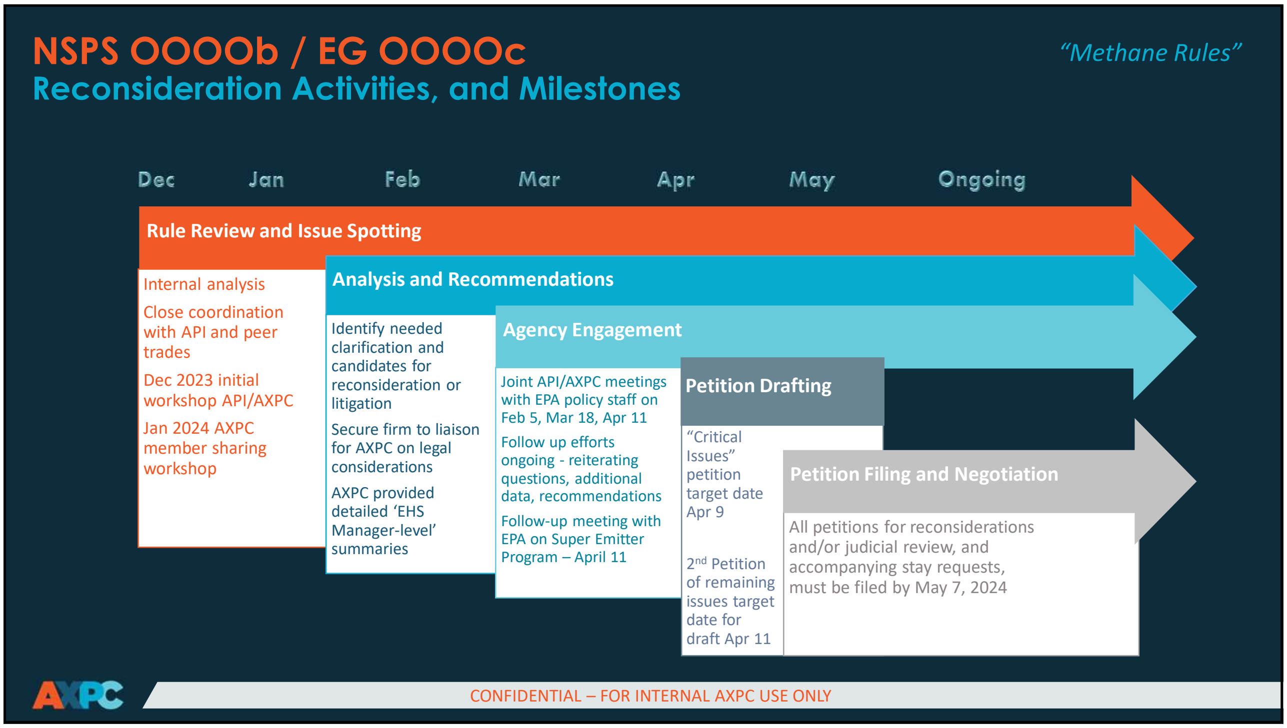
**Key takeaway – Final rule improved over proposals in many important areas. However, significant issues remain that seem to merit filing for reconsideration and likely a protective petition for judicial review.**

**Most problematic issues relate to:**

- **Storage vessels**
- **Control devices**
- **Covers & closed vent systems**
- **Temporary equipment**

**For reasons of…**

1. **Unachievable / fundamentally flawed**
2. **No legal basis**
3. **No environmental benefit or worse**
4. **Disincentives alternative technology**
5. **Need further guidance / clarification**



NSPS OOOOb / EG OOOOc
Reconsideration Activities, and Milestones
"Methane Rules"
Dec
Jan
Feb
Mar
Apr
May
Ongoing
Rule Review and Issue Spotting
Internal analysis
Close coordination with API and peer trades
Dec 2023 initial workshop API/AXPC
Jan 2024 AXPC member sharing workshop
Analysis and Recommendations
Identify needed clarification and candidates for reconsideration or litigation
Secure firm to liaison for AXPC on legal considerations
AXPC provided detailed 'EHS Manager-level' summaries
Agency Engagement
Joint API/AXPC meetings with EPA policy staff on Feb 5, Mar 18, Apr 11
Follow up efforts ongoing - reiterating questions, additional data, recommendations
Follow-up meeting with EPA on Super Emitter Program – April 11
Petition Drafting
"Critical Issues" petition target date Apr 9
2nd Petition of remaining issues target date for draft Apr 11
Petition Filing and Negotiation
All petitions for reconsiderations and/or judicial review, and accompanying stay requests, must be filed by May 7, 2024
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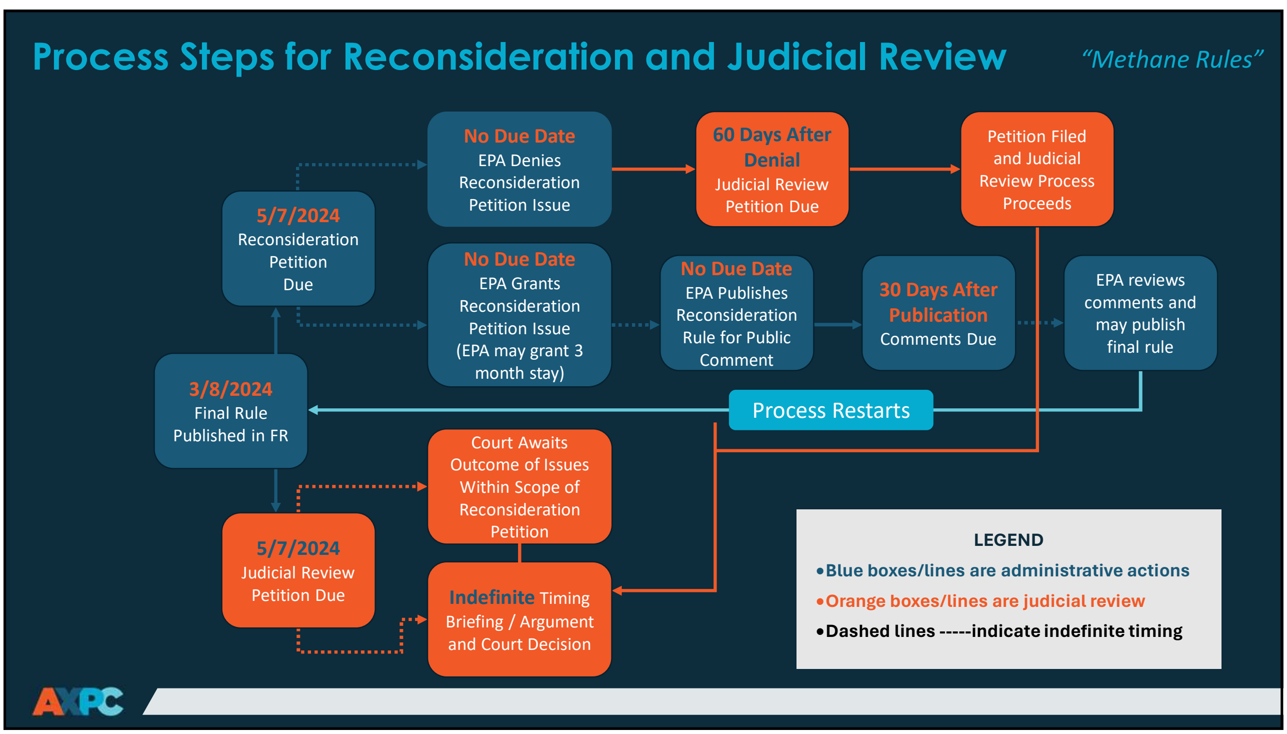

Process Steps for Reconsideration and Judicial Review
"Methane Rules"
No Due Date
EPA Denies Reconsideration Petition Issue
60 Days After Denial
Judicial Review Petition Due
Petition Filed and Judicial Review Process Proceeds
5/7/2024
Reconsideration Petition Due
No Due Date
EPA Grants Reconsideration Petition Issue (EPA may grant 3 month stay)
No Due Date
EPA Publishes Reconsideration Rule for Public Comment
30 Days After Publication
Comments Due
EPA reviews comments and may publish final rule
3/8/2024
Final Rule Published in FR
Process Restarts
Court Awaits Outcome of Issues Within Scope of Reconsideration Petition
5/7/2024
Judicial Review Petition Due
Indefinite Timing
Briefing / Argument and Court Decision
LEGEND
•Blue boxes/lines are administrative actions
•Orange boxes/lines are judicial review
•Dashed lines -----indicate indefinite timing

## OOOOb Final Rule Petition Development

*AXPC Strategy and Next Steps*

| Goal | | Tactics |
|---|---|---|
| Ongoing Analysis and Prep | Initial policy analysis of final rule | ✓ Initial high-level review<br>✓ Consultant review<br>✓ Facilitate member sharing<br>✓ Coordinate with trades and participate in discussions and meetings, both internal and engagements with EPA<br>✓ Review documents, offer feedback, support |
| | Issue spotting for clarifications, reconsideration, or litigation strategy | |
| | Rely on API efforts but create opportunities for AXPC members to add input and participate | |
| | Keep AXPC options open to file or not | ✓ Closely follow trade efforts, participate where allowed<br>✓ Active coordination of trade attorneys and w/ EPA |
| Petition Development and Filing Strategy | Promote inclusion of AXPC interests and priorities within petition strategy discussions | ✓ Analyze strongest legal opportunities<br>✓ Develop list of AXPC specific concerns<br>✓ Compile evidence and arguments to support |
| WE ARE HERE | Secure AXPC a seat at the table for negotiations | ❑ Coordinate with API on the drafting of petitions<br>❑ Negotiate with API if any divergence in interests arises<br>❑ *Joint* API/AXPC filing for **'Critical Issues' reconsideration filing** and accompanying stay requests – *target submittal by April 9th*<br>❑ *Likely* joint API/AXPC filing for 'remaining issues' reconsideration filing – *target submittal by May 7th*<br>❑ *TBD* filing of judicial review petition – *submittal by May 7th* |

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## GHGRP: Subpart W

### Fast Facts

- First implemented in 2011, is now the basis for all US oil and gas GHG inventory estimations
- Congress directed EPA to update Subpart W by August 2024 to ensure the Methane Fee (WEC) is based on empirical data
- EPA proposed updates in August 2023
- Final rule is currently at OIRA

### Improvements

- Pneumatics: better factors
- Opportunities for site-specific data are improved

### But we have concerns…

- Flares: both destruction efficiency and monitoring requirements
- Methane slip
- "Large emission events"
- No harmonization with other rules

### AXPC Actions

- EPA meeting with rule writing staff 9/2023
- Comment letter (and company templates) 10/2023
- In-person follow-up meeting with rule writing staff 2/2024

### What's next?

- Meeting with EPA political staff
- Meeting with OIRA

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# Methane Fee/ Waste Emissions Charge

### Fast Facts

- The Inflation Reduction Act established the "Waste Emissions Charge" (WEC)
- In the IRA, Congress established methane intensity thresholds – any emissions over that threshold are subject to a fee
- EPA proposed its implementing language for the WEC in January

### Pleasant Surprises

- Methane intensity calculation could have been worse

### But we have concerns…

- Disproportionately penalizes oil-heavy operators
- Netting provisions generally favorable, but we should be able to count all a parent company's assets in the evaluation
- Compliance exemption is effectively non-existent
- Implications of Subpart W revisions including limits on use of empirical data for some sources

### AXPC Actions

- In-person meeting with rule writing staff 2/2024
- Comment letter 3/24

### What's next?

- Meeting with EPA political staff
- Meeting with EPA rule writing staff
- Once the rule moves to OIRA, meeting with OIRA

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# Regulatory Support: Methane Tax & Subpart W

### Accomplished

- Energy & Commerce January methane oversight hearing
- Interjected into the 2024 elections (AFPI MERP op-ed).
- Waste Emissions Charge comment extension granted
- Moderate House Democrat MERP letter
- Methane tax repeal **passed** in the House

### In Progress / On the Horizon

- Senate EPW oversight of MERP and Subpart W
- FY25 appropriations language
- Congressional Review Act (when appropriate)


Congress of the United States
Washington, DC 20515

March 22, 2024

The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Regan:

We are strong supporters of the Inflation Reduction Act (IRA). The IRA made the largest climate investment in history and includes critical measures to reduce insulin prices and other healthcare costs. It has proven to benefit working families and seniors, and it continues to move this country forward. However, as with any piece of legislation, compromise was key to getting it done.

Throughout negotiations on the IRA, many of us worked to ensure the energy sector was not unfairly targeted. We did this because we support American energy independence and want to ensure we continue to produce the cleanest oil and gas in the world. This is critical to not only American families but our allies abroad. Nonetheless, we still have strong reservations about the Methane Emissions Reduction Program (MERP) and its implementation.

**While we support a targeted repeal of MERP, we understand the hurdles to such an endeavor. However, we are increasingly concerned with the potential effects MERP may have on America's energy sector. It is critical that the Administration continue to work with America's oil and gas sector to ensure that this program is not implemented in a way that disregards their concerns. The implementation of this program not only needs to follow congressional intent, but also factor in its effects across the spectrum of the American oil and gas industry.**

We look forward to hearing from you on how you are ensuring that all voices are heard on this critical subject. We would appreciate a follow-up on how you all are working with industry as you continue to implement MERP. Thank you for your time and attention to this matter.

Sincerely,

Henry Cuellar, Member of Congress
Vicente Gonzalez, Member of Congress
Mary Peltola, Member of Congress

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# SEC Climate Disclosure Rule
## Current Status

- SEC voted on partisan lines to approve the Final Climate Disclosure Rule – *March 6th*
- Meaningful improvements have been made, but significant issues remain
- Published in the Federal Register – *March 28th*
- SEC voluntarily agreed to stay the rule as the litigation proceeds – *April 4th*

  …*"to avoid regulatory uncertainty"* and to …*"facilitate the orderly judicial resolution of those challenges and allow the court of appeals to focus on deciding the merits"*

### AXPC Member Workshop on Final SEC Rule – *April 3rd*

**Agenda Topics**

- Materiality and Disclosures
- Financial Integration and Reg S-X
- Alternate GHG Reporting
- SEC Filing v. ESG Reporting
- Disclosure Readiness and SEC
- Preparation Activities
- Outstanding Concerns

SPIRIT ENVIRONMENTAL

WHITE & CASE


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# SEC Climate Disclosure Rule
## Summary Highlights

**Three components of required disclosures…**

01

Narrative disclosures of a registrant's identification, management and oversight of climate-related risks as material

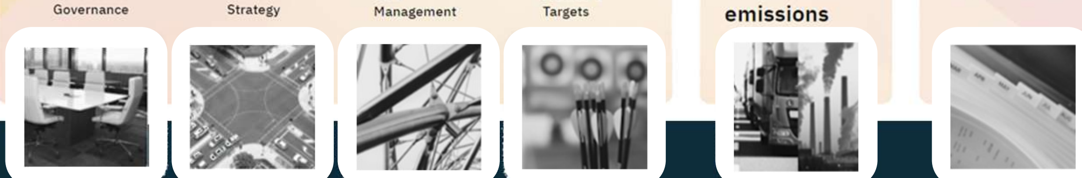
Governance | Strategy | Risk Management | Metrics & Targets

02

Measurement and assurance of material scope 1&2 emissions

03

Note to consolidated financial statements



Includes scope 1 and 2 emissions metrics a.k.a. your 'Footprint'

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**Source: Persefoni*

## SEC Climate Disclosure Rule

### Key Advocacy Issues

| | | Final Rule |
|---|---|---|
| Scope 3 Emissions | Win | Not required *at this time* |
| Operated v. Equity Reporting | Win | Allows companies to choose |
| Actual or Potential Climate-Risk | Improved | Still required, but narrowed to only material and supply chain only if known |
| EPA Emissions Reporting | Partial Win | Subpart W not a substitute but methodology allowed |
| Historical emissions, pre-rule | Partial Win | Not required unless voluntarily disclosed in prior year's disclosures |
| Third-Party Attestation | Improved | Longer phase-in for larger files, smaller filers not required |
| Voluntary Disclosures | Improved | Still required, but with expanded safe harbor |
| Confidential Information | TBD | Limited, intended to give flexibility and reduce likely need to reveal CBI |
| Implementation Timeline | Improved | Phase-in for several key requirements |
| Expanded Safe Harbor | Improved | Expanded to cover transition plans, scenario analysis, internal carbon prices, targets and goals, though need for clarification remains |
| **Regulation S-X: Financial Statements** | | **Final Rule** |
| Climate-Related Disclosures | Improved | Still requires, but narrows climate related metrics |
| 1% Threshold for Line Item | Improved | Still requires, but narrowed to only severe weather events and *other natural conditions* |

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## SEC Climate Disclosure Rule

### Next Steps

**SEC is expected to move forward with a process for providing clarity to market participants on ambiguous aspects of the final rule**

- Generally applicable Frequently Asked Questions (FAQs)
- Targeted relief through no-action letters

**A number of issues remain on which may be beneficial to engage and seek clarity from SEC**

**Examples include:**

1. **Definition of 'Other Natural Conditions'** – undefined, yet key phrase triggering financial statement disclosures
2. **Confidential Information** – what can be compliantly omitted
3. **Scope of the Safe Harbor** – what constitutes 'forward looking statements' and how to handle 'historical facts' used in analysis

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# Restricting Land Use and Federal Minerals

## Federal Minerals and Access

*Why does it matter?*

These policies are a *direct* expression of an administration's broader stances on…

- Government Revenues and the Economy
- States Rights and Federalism
- Public and Tribal Trust
- Markets, Trade, and Security
- Social or Political Pressure

…FEDERAL NEXUS policies CONTROL access on PRIVATE LANDS too

NEPA | ESA | NHPA

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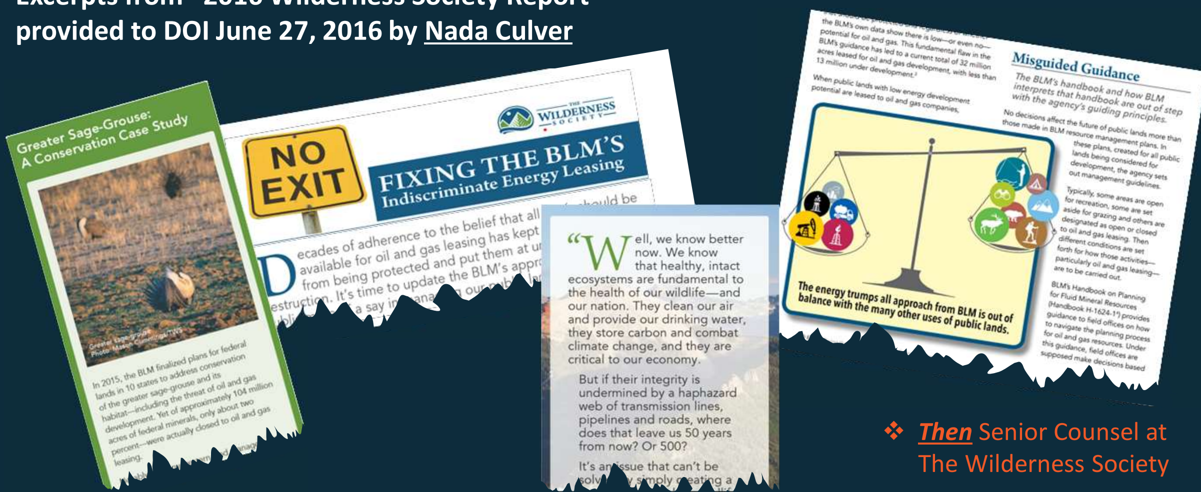
## Land Use Restrictions Are **Highly** Advocated For

**Excerpts from "2016 Wilderness Society Report" provided to DOI June 27, 2016 by Nada Culver**

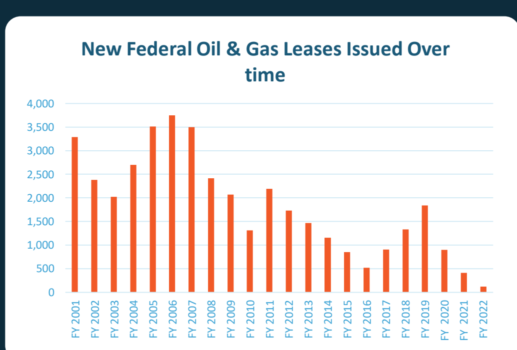



- ***Then*** Senior Counsel at The Wilderness Society
- ***Today*** BLM Director



## Biden Administration Adopts NGO Recommendations:
### Federal Land Use Restrictions

| Jan 2021 | 2021 – 2022 | 2023 | 2024 | Late 2024 & Beyond |
|---|---|---|---|---|
| Executive Order to Pause Leasing | Federal Lease Sales Slow to Near Halt & Congress negotiates Build Back Better & the IRA | Conservation & Landscape Health Rulemaking | Implementation of IRA Federal Leasing Provisions | 98 Planned RMP Amendments to Implement Conservation & Landscape Health Rule |



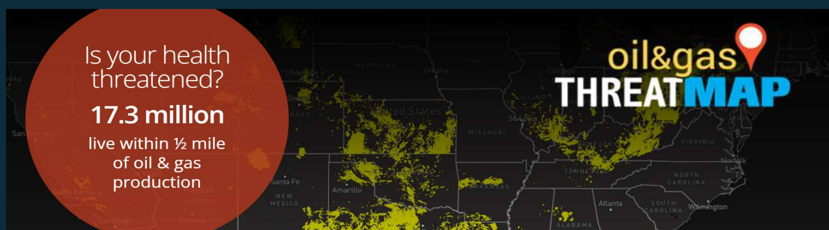

### Conservation & Landscape Health Rule:
- Makes conservation a "use" of federal lands
- Prioritizes conservation, intact landscapes, restoration over other uses
- Creates conservation leases (10-year terms)
- Expands BLM discretion
  - Set aside additional 'Areas of Critical Environmental Concern'
  - Require compensatory mitigation for impacts

### Mineral Leases & Leasing Process Rule:
- Increases costs and burden of federal lands development
- Increases BLM discretion within the program
- Reprioritizes lands made available to those deemed *by BLM* to have medium or high potential for development.

# NGO Groups Pursue State Surface Use Restrictions

## Mirrors Federal Land Use Advocacy and Narrative

- Stresses creation of buffers against the effects of energy development
- Suggest setbacks can help phase out fossil fuels and achieve climate goals
- Claim setbacks achieve the most equitable outcomes




*"Compared to excise taxes and carbon taxes, setback restrictions on new oil wells have larger health benefits and worker comp losses, but are more equitable by bringing greater benefits …to disadvantaged communities"*

*- Nature Energy*

**"Calls for Increased Setbacks from HZ Oil and Gas Well Pads"** | OH Env. Council

**"CA voters could be asked to vote twice on buffer zones around new oil wells"** | LA Times

**"Increased setbacks a 'ban' on drilling? A new study shows otherwise"** | CO Newsline

**"House bill could effectively ban gas well drilling in PA"** | Bradford Era

**"NM considers setback for oil wells near schools and day care centers"** | AP News



# BLM Waste Prevention Final Rule

## "Venting and Flaring Rule"


**Final rule pre-released March 27th**

**Rule will take effect 60 days after official publication**

**BLM estimates it will cost industry ~ $19.3 million per year**

**<u>Key Impacts of Final Rule:</u>**

- Establishes a volumetric limit on royalty-free flaring
- New Phased-Down Limits on Royalty-Free Flaring - begin at 0.08 Mcf of gas per barrel of oil produced in year one, then decreases to 0.05 Mcf per barrel in year four and beyond
- Metering requirement on High Pressure flares
- Vapor Recovery System required for all Oil Storage Vessels or annually renew technical/ economic infeasibility exception
- Waste Prevention Plan inclusion in APD application
- Required Leak Detection and Repair Plan requirements, including BLM approval of your LDAR plan
- Automatic $1,000 fine for open thief hatches
- Some provisions duplicate or are misaligned with other methane rules

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# Government Affairs

## Implications of Potential 2024 Election Outcomes

**SCENARIO 1 — UNIFIED REPUBLICAN CONTROL**

Republican Control of House, Senate, White House

- Republican Reconciliation*
  - Potential for: methane tax repeal, TCJA extensions; CAMT/IDC fix
- Regulatory relief
  - EPA regs, LNG pause, BLM, SEC
- Rhetorical shift
  - Domestically and internationally
- Congressional Review Act
  - Overturn late-finalized Biden Regs

**SCENARIO 2 — DIVIDED GOVERNMENT**

Republican Control of Executive Branch; Divided Congress

- Regulatory relief
  - EPA regs, LNG pause, BLM, SEC
- Rhetorical shift
  - Domestically and internationally
- Congressional Review Act?
- Bipartisan negotiations on tax, permitting

**SCENARIO 3 — DIVIDED GOVERNMENT**

Democrat Control of Executive Branch; Divided Congress

- Continued regulatory actions and executive orders
  - Focus on implementation, litigation, "works in progress"
  - New "legacy" rules and regulations
- Bipartisan negotiations on tax, permitting

**SCENARIO 4 — UNIFIED DEMOCRAT CONTROL**

Democrat Control of House, Senate, and White House

- Democrat Reconciliation*
  - Potential for: Increased stock buyback tax, windfall profit tax, increased fees and taxes
- Continued regulatory actions and executive orders
  - Focus on implementation, litigation, WIPs, and new legacy rules and regs

NGO-led Litigation ← → Industry-led Litigation

**Reconciliation refers to the process by which a party with full control of congress and the white house can pass party-line legislation on tax or spending.*

## Scenario Planning

Relationship Planning

***Objective**: Build and strengthen relationships with key influencers under different 2025 scenarios.*

**TRUMP-ALIGNED MEMBERS** | **MODERATE DEMOCRATS** | **SENATE LEADERSHIP**

- ❑ Utilize AXPC resources and activities to build relationships.
- ❑ Where do gaps exist, and how can we fill those gaps?

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## DOE's LNG Announcement

**"Win for political symbolism, not the climate" –WAPO**

**What was announced:**

- Pause on new export approvals
- Reopen the LNG export "public interest" analysis
  - Long-term global demand for LNG
  - Domestic natural gas prices
  - Climate impacts

**Process:**

- **Step 1:** Economic and climate impact studies undertaken by EIA, NETL, and PNNL over the next several months
- **Step 2:** Comment period on updated studies (likely 60 days)
- **Step 3:** DOE reviews comments and finalizes studies
- **Step 4:** Public interest/permit decisions will be re-started (in 2014 pause/reset, it was a year between the pause and the first permit being issued)

**What to expect from updated studies:**

- Increased social cost of carbon calculation
- Analysis of whether LNG exports would be competing against other fossil fuels (coal) or against broader deployment of renewables
- More emphasis on the cumulative impact of siting LNG liquefaction terminals

**This all leads to a higher bar for exports being found to be in the public interest**

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## Exports

### Objectives

1. DOE studies are credible and use sound science; DOE maintains or utilizes reasonable thresholds for public interest determinations
2. Seek legislative solution(s)
3. Inform and shape policymakers' and stakeholders' views on US LNG
4. Continued horizon scanning on any potential risks to US crude oil exports

### Strategy

1. Amplify a diverse set of voices to counterpressure activist campaigns against LNG exports.
2. Active industry and stakeholder participation in the DOE comment process.
3. Develop credible studies and content to support LNG's economic and climate benefits.
4. Collaborate with campaigns to highlight crude oil and LNG exports as key issues in the competitive races.
5. Build non-industry voices in competitive states (manufactures, labor) to support crude and LNG exports.
6. Shore up support among traditional groups and Republicans.

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## Initial Response

**Administration**
- AXPC/API led federal and state trade letter to DOE

**Congressional**
- Bipartisan passage of "Unlocking our Domestic LNG Potential Act"
- Congressional briefings
- Congressional letters
- Support E&C oversight hearing
- AXPC PA and OH Royalty/LNG Survey
- LNG export background document for hill and media

**International**
- Partnership with LNG Allies on embassy engagement

## In Progress

**Administration**
- DOE engagement

**Congress**
- Fly-In
- Appropriations language
- CRA consideration
- Additional Congressional oversight efforts

**Campaigns**
- Ensure candidates in key oil and gas-producing states have information about LNG exports and US natural gas supplies.

**Third-Party**
- Coordinate with member companies on labor engagement.
- Risk/opportunity assessment with non-oil and gas groups.

## On the Horizon

**Administration**
- DOE public comment period.
- Help build a robust and diverse public comment docket.
- Additional administration engagement.

**Congressional & Administration**
- BRG LCA study release.

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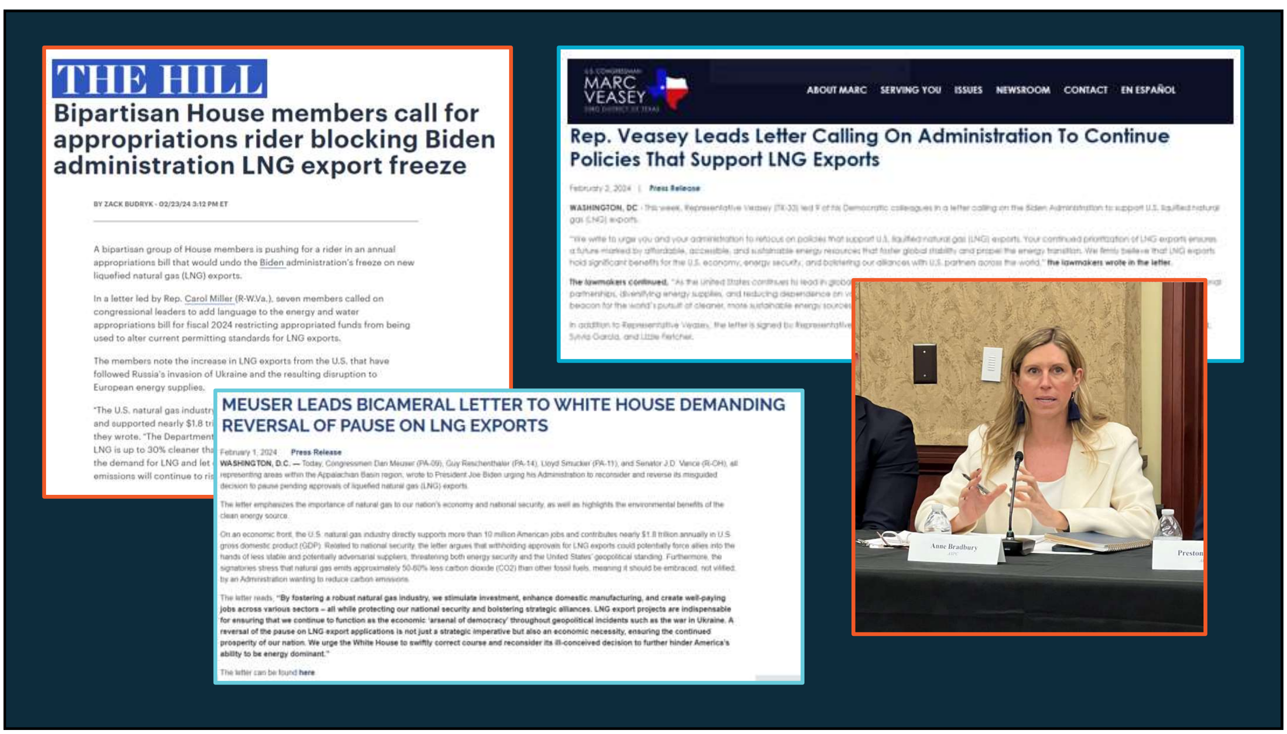

## Tax

Intangible Drilling Costs & the Corporate Alternative Minimum Tax

***Objective:*** *Pursue a regulatory and legislative approach to allow for immediate deductibility of Intangible Drilling Costs under the Corporate Alternative Minimum Tax.*

**Regulatory Strategies**

- Engage the Treasury to advocate for the need for guidance to allow for the deduction of IDCs under the CAMT.
- Articulate the omission of IDC deduction under CAMT and the need for equal treatment for similarly situated taxpayers
- Utilize comment period on proposed regulations

**Legislative Strategies**

- Build support for the "Promoting Domestic Energy Production Act"
- Position for 2025 TCJA
- Utilize hearings as an opportunity to highlight the disparity for oil and gas, and the necessity for a regulatory or legislative fix.
- Congressional briefings and roundtables

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# Communications

## Influencing the energy debate

### Engaging & Educating

… the media and public about the benefits of American-produced oil & natural gas, as well as the direct and indirect impacts of public policy decisions made in Washington.

**E&E NEWS**

**Will Biden shock global market with LNG stop sign?**

**FOX NEWS**

**Fossil fuel industry unleashes on Biden for halting key natural gas projects**

**HOUSTON CHRONICLE**

**House moves to end Biden administration's LNG pause**

AXPC

## Influencing the energy debate

### Planting

…questions and stories to targeted media outlets to apply pressure to lawmakers or promote our interests

**Washington Examiner**

**Biden's LNG export embargo hurts farmers too**

New in ME: Dem Sen @SherrodBrown stakes middle ground on Biden LNG pause. In his first public comments on the move to me, Brown, facing tough re-election in red state Ohio, differentiates himself from Dems in other gas-producing states like Pa. who've come out firmly against it

ME FIRST — **SHERROD BROWN NAVIGATES LNG PAUSE:** Sen. Sherrod Brown of Ohio is staking a middle ground on the LNG permitting pause, differentiating himself from Democrats in other energy-producing states like Pennsyvalnia who've come out firmly against the controversial policy change.

"My focus is on protecting Ohio workers in the natural gas industry and Ohio manufacturers and lowering energy costs for all Ohioans — and I continue to review this rule and the impact it would have on achieving those goals," Brown said in a statement shared with our Josh Siegel that marked his first public comments on the pause. "I have concerns around letting American liquid natural gas fuel China's state-sponsored industries that consistently try to undermine American production."

Brown, who is in his third term representing Ohio, is a top target for Republicans in the battle for the Senate majority, as his state has drifted right over the past decade and made him the only statewide elected Democrat. He is known to have strong ties to unions in his state — a top 10 natural gas producer — that represents large numbers of energy workers and manufacturers.

Brown's concern around LNG exports potentially going to China could become a common argument used by Democrats to defend the pause, Kevin Book, managing director of ClearView Energy Partners, a research group, told Josh.

M · Feb 13, 2024 · **19.1K** Views

11 8 3

**POLITICO**

**Gas export pause could scramble Biden's chances in Pennsylvania**

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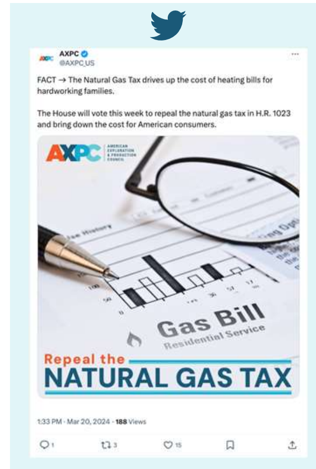
# Influencing the energy debate

## Growing

AXPC's presence in the energy conversation

- 26% increase in Twitter followers since beginning of the year
- New creative to amplify:



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# Influencing the energy debate

## Activating

- Voters to support pro-energy policies & lawmakers
- 34,000+ grassroots energy advocates

**Advocay Emails:**

- 3x Emails: **LNG Export Freeze "Tell Congress"**
- 3x Emails: **State of the Union Survey**
- 1x Email: **Natural Gas Tax Repeal "Tell Congress"**

**Email acquisition surveys:**

- Should the US produce more American energy OR buy oil from foreign nations?
- Opposing USLNG empowers Russia and China. Tell Congress → Support USLNG
- Tell Biden: USLNG Exports sustain and support our global allies!

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# INTERNAL ADVOCACY

## Informing and Empowering Energy Industry

- **Frequency:** monthly
- **Intended audience:** AXPC company employees
- **Content:** informative, upbeat
- **Delivery method:** Companies circulate internally OR provide AXPC email list for DDTF email distribution

DRILLING DOWN THE FACTS

More production. Fewer emissions. This is the reality of American energy production, and it's only possible because of your hard work.

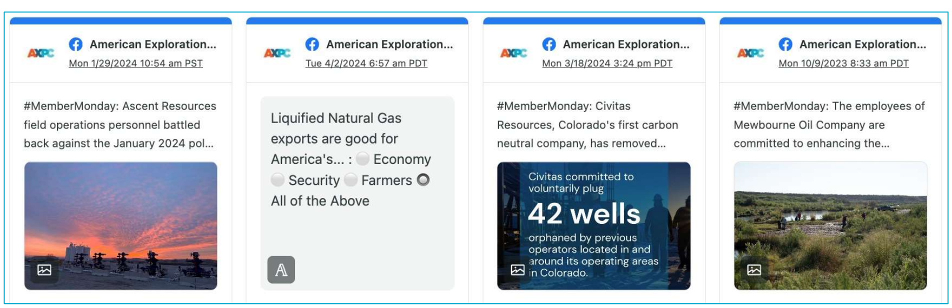
To receive more updates and advocacy alerts on American energy issues, or if you know anyone else who would like to receive them, please consider forwarding this email.

SIGN UP FOR OUR UPDATES

Thank you for all you do for our industry and our country.

Best,
Anne Bradbury, CEO

# Spotlight on Member Monday

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# Grassroots

## AXPC | AMERICAN ENERGY ADVOCATES

**8,558**
**ADVOCATES**
As of 9/5/23

›

**34,786**
**ADVOCATES**
As of 03/26/24

**306%**
**GROWTH**
in ~5 months

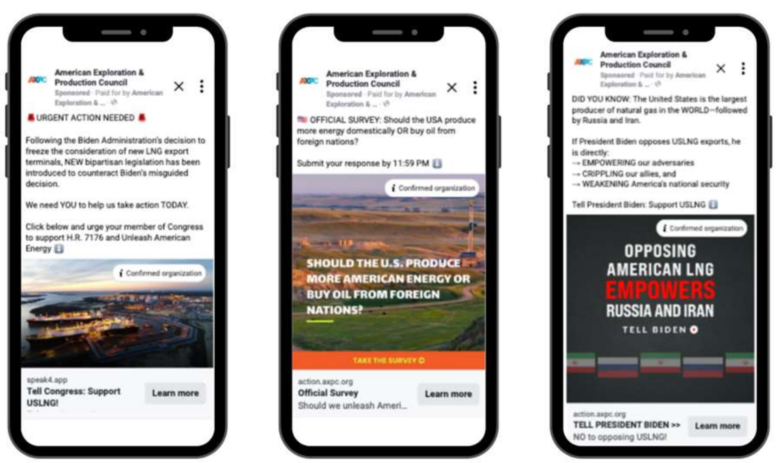
## AXPC | FACEBOOK ADS

**SPEND**
$35,975

**IMPRESSIONS**
1,341,476

**SIGNUPS**
9,488

**COST PER ACQUISITION**
$3.79



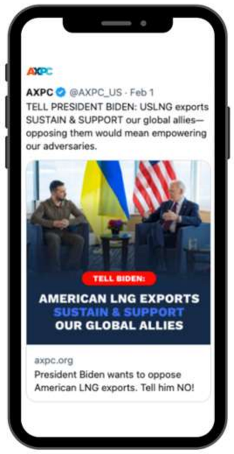
## AXPC | TWITTER "X" ADS

**SPEND**
$45,760

**IMPRESSIONS**
14,721,341

**SIGNUPS**
4,387

**COST PER ACQUISITION**
$10.43





# Political Activities

# 2024 ELECTION: White House, House & Senate

All in play - "A game of inches"

**House**

- 5 seats needed to flip
- More competitive R seats
- Redistricting still a factor

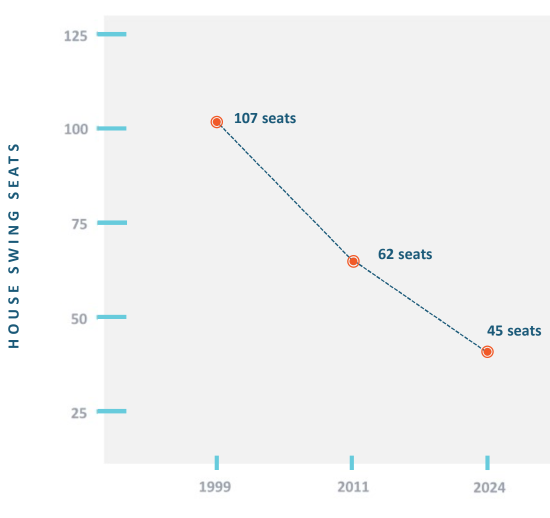
**Senate**

- 1-2 seats needed to flip
- Landscape favors Republicans

**WHITE HOUSE**

- Biden 2020 vs Biden 2024
- Possibility of 3rd party

# THE INCREDIBLE SHRINKING SWING SEAT




- From 1999-2024, a 60% decline in competitive seats
- 58% of the decline is from political realignments; 42% of decline is from redistricting
- **TAKEAWAY:** For 90% of House Members, the primary is likely more competitive than the general

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# HOUSE
## Toss Up

### CURRENT BALANCE OF POWER

**213 DEMOCRATS** | **218 REPUBLICANS**

**LIKELY DEMOCRAT**
18 Dem • 1 Rep
0 Ind

- AL-02 New Seat
- CA-09 Harder
- CA-49 Levin
- FL-09 Soto
- FL-23 Moskowitz
- KS-03 Davids
- MD-06 Open (Trone)
- MI-03 Scholten
- MN-02 Craig
- NH-01 Pappas
- NH-02 Kuster
- NJ-03 Open (Kim)
- NV-01 Titus
- NV-04 Horsford
- NY-03 Suozzi
- OR-04 Hoyle
- TX-28 Cuellar
- VA-10 Open (Wexton)
- WA-08 Schrier

**LEAN DEMOCRAT**
13 Dem • 1 Rep
0 Ind

- AK-AL Peltola
- CA-47 Open (Porter)
- CT-05 Hayes
- IL-17 Sorensen
- IN-01 Mrvan
- NV-03 Lee
- NY-18 Ryan
- NY-22 Williams
- OH-01 Landsman
- OH-09 Kaptur
- OR-06 Salinas
- PA-17 Deluzio
- TX-34 Gonzalez
- VA-07 Open (Spanberger)

**DEMOCRAT TOSS UP**
10 Dem • 0 Rep
0 Ind

- CO-08 Caraveo
- ME-02 Golden
- MI-07 Open (Slotkin)
- MI-08 Open (Kildee)
- NC-01 Davis
- NM-02 Vasquez
- OH-13 Sykes
- PA-07 Wild
- PA-08 Cartwright
- WA-03 Perez

**REPUBLICAN TOSS UP**
0 Dem • 11 Rep
0 Ind

- AZ-01 Schweikert
- AZ-06 Ciscomani
- CA-13 Duarte
- CA-22 Valadao
- CA-27 Garcia
- CA-41 Calvert
- NJ-07 Kean Jr.
- NY-04 D'Esposito
- NY-17 Lawler
- NY-19 Molinaro
- OR-05 Chavez-DeRemer

**LEAN REPUBLICAN**
0 Dem • 8 Rep
0 Ind

- CA-45 Steel
- CO-03 Open (Boebert)
- IA-03 Nunn
- MI-10 James
- NE-02 Bacon
- PA-10 Perry
- VA-02 Kiggans
- WI-03 Van Orden

**LIKELY REPUBLICAN**
0 Dem • 10 Rep
0 Ind

- CA-03 Kiley
- CA-40 Kim
- FL-05 Rutherford
- FL-13 Luna
- IA-01 Miller-Meeks
- MT-01 Zinke
- NY-01 LaLota
- PA-01 Fitzpatrick
- SC-01 Mace
- TX-15 De La Cruz

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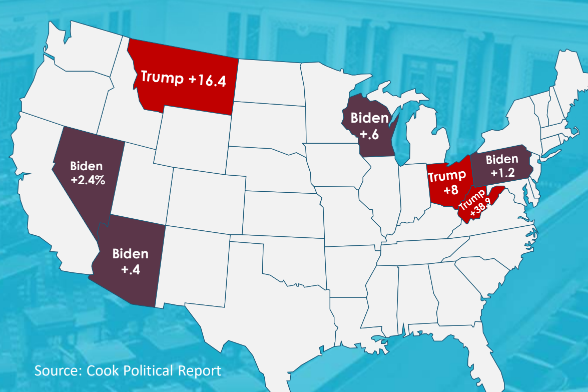
# SENATE OUTLOOK
Battle for the Senate runs through OH, PA, WV

## Landscape Favors for Republicans

- -Republicans defending 0 competitive seats
- -Democrats defending
  - 3 states won by Trump in 2020 (OH,WV,MT)
  - 4 states Biden won by less than 5 points in 2020 (AZ, PA, NV, WI)

### 2024 Competitive Democrat-held Seats
BASED ON TRUMP 2020 MARGINS

**50 Democrats** | **49 Republicans**




Source: Cook Political Report

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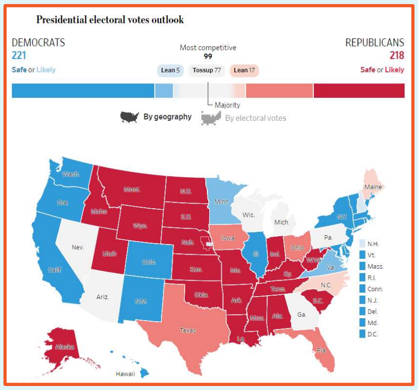
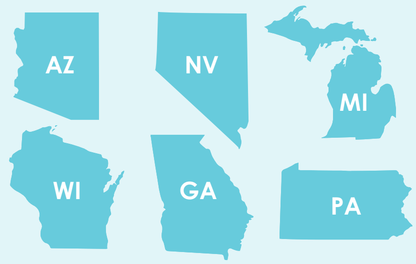
# Presidential Outlook

## A game of inches




*"The two most recent presidential elections were among the closest in the past century. The 2024 race is set to be another squeaker.* ***The race is likely to be decided by little more than a half-dozen states****."*

**Battleground states**




*Known unknowns: 3rd party impact; voter turnout;*

*"That there are so few battlegrounds will put more pressure on candidates to focus on issues specific to those seven states.* ***In Michigan, they'll talk about the auto industry; in Pennsylvania, natural-gas production."***

WSJ | OPINION

## Primary and Key Dates

**Oil and gas footprint states primary dates:**

| April 23 | May 14 | June 4 | June 11 |
|---|---|---|---|
| Primary | Primary | Primary | Primary |
| Pennsylvania | West Virginia | New Mexico | North Dakota |

**Key 2024 Election Cycle Dates:**

**July 15-18:** Republican National Convention in Milwaukee

**August 19-22:** Democratic National Convention in Chicago

**Potential Debate schedule:** *(candidates have not yet agreed)*

- **September 16:** Presidential debate at Texas State University in San Marcos, Texas
- **September 25:** VP debate at Lafayette College in Easton, PA
- **October 1:** Presidential debate at Virginia State University in Petersburg, VA
- **October 9:** Presidential debate at the University of Utah in Salt Lake City

**Throughout October:** Early voting starts in most states

**Election Day!**

**NOVEMBER 5**

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# AXPC Political Activities

## Layers of Support

US ENERGY PAC
THE PAC OF THE AMERICAN EXPLORATION & PRODUCTION COUNCIL

| US Energy PAC | AXPC-hosted PAC Fundraisers | Supplemental Political Expenditures |
|---|---|---|
| Direct campaign contributions<br>Up to $10k per candidate, per cycle<br>» When: ongoing<br>» Budget: $200,000 | Allows for leveraging AXPC members PAC and personal contributions<br>» When: ongoing | No limit on expenditures<br>Limits on coordination with campaign and message<br>Potential examples: digital ads, mail, billboards<br>» When: Predominantly Q3 + Q4<br>» Budget: ~$1,000,000 |

**GOTV Grassroots Engagement**
Organic (with company support)
Paid (targeted digital)
» When: Q3 + Q4

**Additional Resources**
Political website
» launching in May 2024
Early vote educational materials

# Supplemental Political Expenditure

### Tier 1 - Priorities

| Incumbent | Challenger | House/Senate |
|---|---|---|
| Senator Jon Tester (D) | **Tim Sheehy (R)** | Senate (MT) |
| Senator Bob Casey (D) | **David McCormick (R)** | Senate (PA) |
| **Rep. Tony Gonzales (R)** | Brandon Herrera (R) | House (TX-23, Primary) |

### Tier 2 - Watch list

| Incumbent | Challenger | House/Senate |
|---|---|---|
| **Rep. Mary Peltola (D)** | Nicholas Begich (R), Nancy Dahlstrom (R) | House (AK-AL) |
| Open | **Jeffrey Hurd (R)** | House (CO-03, Primary) |
| Rep. Yadira D. Caraveo (D) | **Gabe Evans (R)** | House (CO-08) |
| Rep. Gabriel Vasquez (D) | **Yvette Herrell (R)** | House (NM-02) |
| Rep. Matt Cartwright (D) | **Rob Bresnahan (R)** | House (PA-08) |
| **Rep. Vicente Gonzalez (D)** | Mayra Flores (R) | House (TX-34) |
| Senator Martin Heinrich (D) | **Nella Domenici (R)** | Senate (NM) |
| Senator Sherrod Brown (D) | **Bernie Moreno (R)** | Senate (OH) |
| Senator Mitt Romney (Retiring) (R) | **Rep. John Curtis (R)** | Senate (UT, Primary) |

** the candidates in orange are AXPC's preferred candidates.*

US ENERGY PAC
THE PAC OF THE AMERICAN EXPLORATION & PRODUCTION COUNCIL

## 2024 LOOK AHEAD

**$175,000**

2024 GOAL

**$25,000**

INCREASE FROM 2023

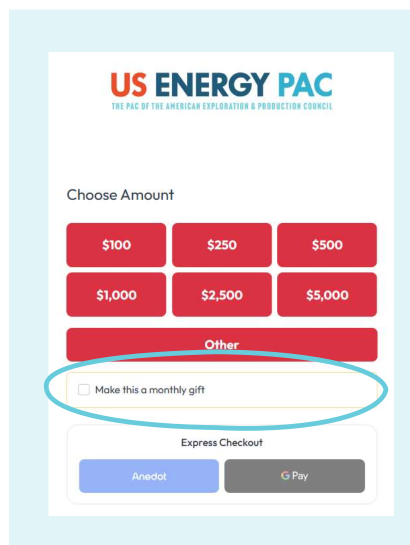
## Review of the 2024 FUNDRAISING GOALS

$175,000
Overall Goal

- $5,000
  From each member company
- Increased employee participation
  - Employee toolkit
  - Monthly contributions

US ENERGY PAC
MEMBER COMPANY TOOLKIT

US ENERGY PAC
THE PAC OF THE AMERICAN EXPLORATION & PRODUCTION COUNCIL

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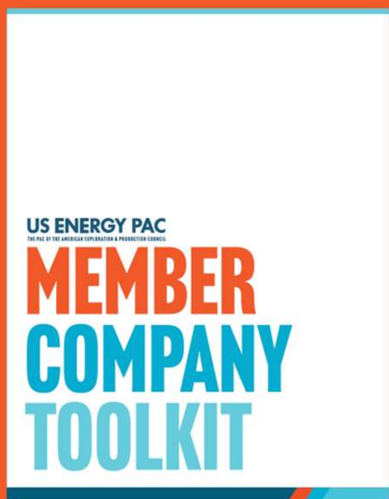
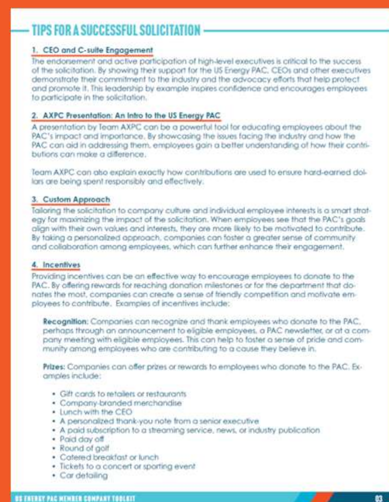
# US Energy PAC
## Member Company Toolkit



TIPS FOR A SUCCESSFUL SOLICITATION

1. **CEO and C-suite Engagement**
The endorsement and active participation of high-level executives is critical to the success of the solicitation. By showing their support for the US Energy PAC, CEOs and other executives demonstrate their commitment to the industry and the advocacy efforts that help protect and promote it. This leadership by example inspires confidence and encourages employees to participate in the solicitation.

2. **AXPC Presentation: An Intro to the US Energy PAC**
A presentation by Team AXPC can be a powerful tool for educating employees about the PAC's impact and importance. By showcasing the issues facing the industry and how the PAC can aid in addressing them, employees gain a better understanding of how their contributions can make a difference.

Team AXPC can also explain exactly how contributions are used to ensure hard-earned dollars are being spent responsibly and effectively.

3. **Custom Approach**
Tailoring the solicitation to company culture and individual employee interests is a smart strategy for maximizing the impact of the solicitation. When employees see that the PAC's goals align with their own values and interests, they are more likely to be motivated to contribute. By taking a personalized approach, companies can foster a greater sense of community and collaboration among employees, which can further enhance their engagement.

4. **Incentives**
Providing incentives can be an effective way to encourage employees to donate to the PAC. By offering rewards for reaching donation milestones or for the department that donates the most, companies can create a sense of friendly competition and motivate employees to contribute. Examples of incentives include:

**Recognition**: Companies can recognize and thank employees who donate to the PAC, perhaps through an announcement to eligible employees, a PAC newsletter, or at a company meeting with eligible employees. This can help to foster a sense of pride and community among employees who are contributing to a cause they believe in.

**Prizes:** Companies can offer prizes or rewards to employees who donate to the PAC. Examples include:

- Gift cards to retailers or restaurants
- Company-branded merchandise
- Lunch with the CEO
- A personalized thank-you note from a senior executive
- A paid subscription to a streaming service, news, or industry publication
- Paid day off
- Round of golf
- Catered breakfast or lunch
- Tickets to a concert or sporting event
- Car detailing

US ENERGY PAC MEMBER COMPANY TOOLKIT 03

US ENERGY PAC
THE PAC OF THE AMERICAN EXPLORATION & PRODUCTION COUNCIL

FREQUENTLY ASKED QUESTIONS

**WHAT IS THE US ENERGY PAC?**
The US Energy PAC is the political action committee of the American Exploration and Production Council (AXPC). The US Energy PAC is bipartisan – supporting both Democrats and Republicans – and helps elect pro-energy candidates to federal office.

**WHO DETERMINES WHICH CANDIDATES RECEIVE US ENERGY PAC SUPPORT?**
The PAC is governed by a Board of Directors comprised of Government Affairs representatives from a geographically diverse group of member companies across AXPC's operational footprint.

**HOW CAN I CONTRIBUTE TO THE US ENERGY PAC?**
You can donate here or mail a check using the information on the attached form.

**HOW CAN I LEARN MORE ABOUT THE US ENERGY PAC?**
Please email USEnergyPAC@axpc.org

**WHO CAN CONTRIBUTE TO THE US ENERGY PAC?**
Legally, only AXPC members who provide written prior approval can be solicited for US Energy PAC contributions.

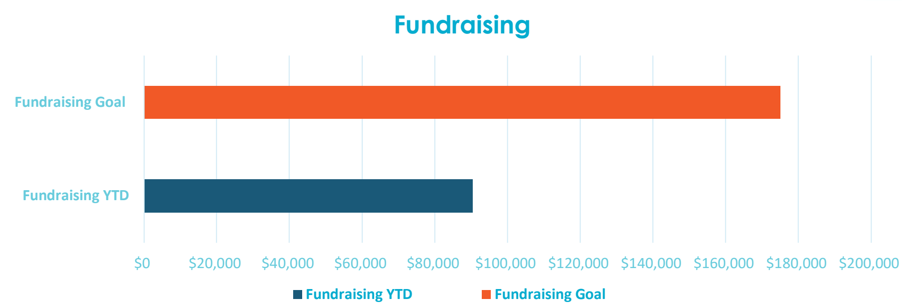
**WHY SHOULD I CONTRIBUTE TO THE US ENERGY PAC?**
The US Energy PAC is your voice at the national level. The US Energy PAC has strength in numbers – the more members who support, the stronger our voice is in the political process.

**WHY CAN'T THE US ENERGY PAC USE DUES MONEY?**
Under federal law, the use of member dues to help elect candidates to federal office is strictly prohibited. Additionally, the US Energy PAC can only accept voluntary personal contributions from individuals, not corporate funds.

FAQS

## Tracking Progress

US ENERGY PAC
THE PAC OF THE AMERICAN EXPLORATION & PRODUCTION COUNCIL




**Cash on Hand: $135,463**

- **$90,300 raised YTD of $175,000 goal (52%)**
- **$63,583 carried over from 2023**

- **Contributions of $5,000 (or more) per member company: 12**
- **Eligible member company participation: 39%**
- **Employee participation from 10 member companies: 70%**

Updated: April 5, 2024

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## Criteria for PAC Support

US ENERGY PAC
THE PAC OF THE AMERICAN EXPLORATION & PRODUCTION COUNCIL

**Footprint**


Represents AXPC member company assets.

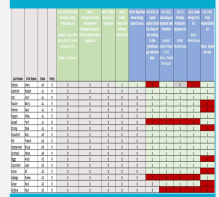
**Committee of Jurisdiction**


Serves on a committee of jurisdiction relevant to AXPC's priority issues.

**Leadership**

Holds a leadership position in Congress or on a committee.

**Supports a Pro-Energy Agenda**



Utilize the AXPC energy tracker.

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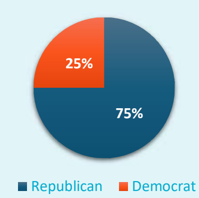
## 2024 Spending Budget Breakdown

**$201,000** Approved by PAC Board VS **$195,000** Total Spend in 2023

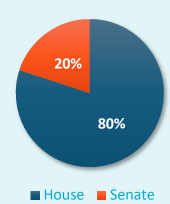
Breakdown

- $114,500 Republicans
- $44,000 Democrats
- $15,000 Caucuses (i.e. Blue Dogs, Across the Aisle PAC)
- $10,000 House Placeholder

### Republican vs. Democrat Breakdown




### House vs. Senate Breakdown




*Note: The complete 2024 PAC Board-approved budget can be found in the appendix.*

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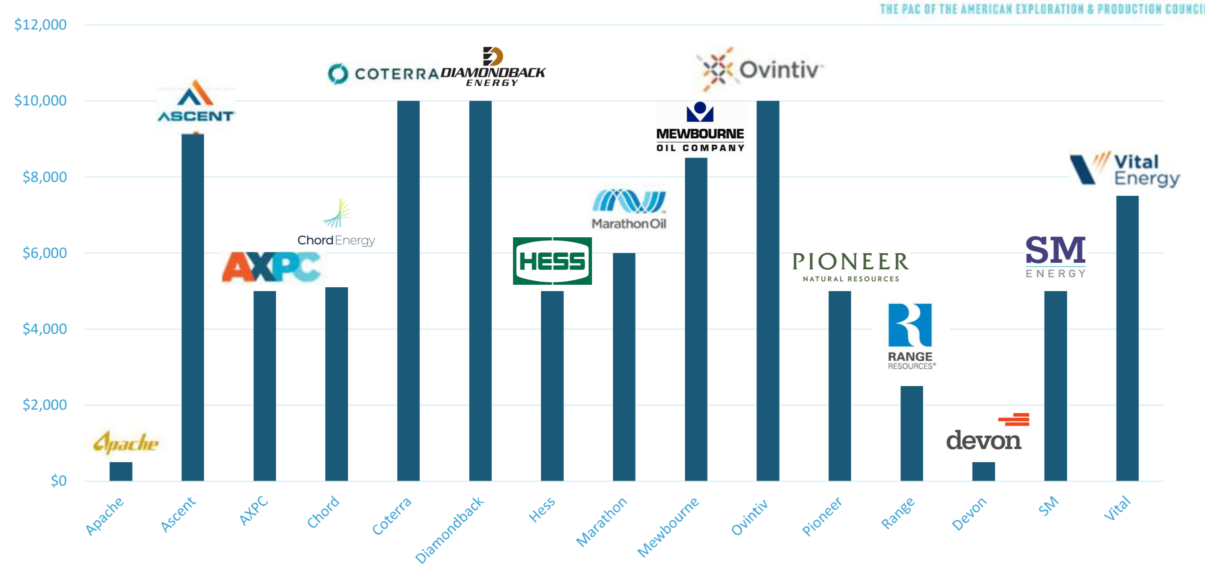
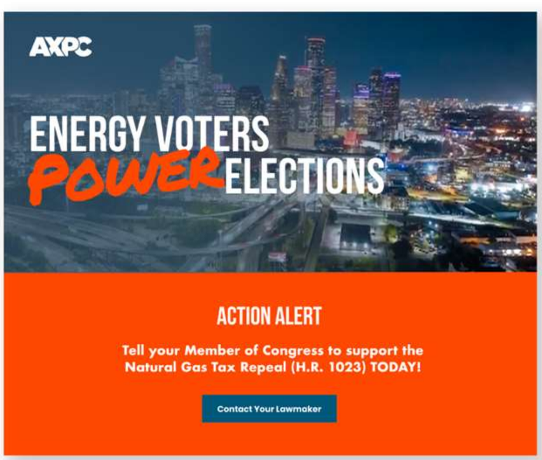
## Thank You to Our Contributors!

US ENERGY PAC
THE PAC OF THE AMERICAN EXPLORATION & PRODUCTION COUNCIL

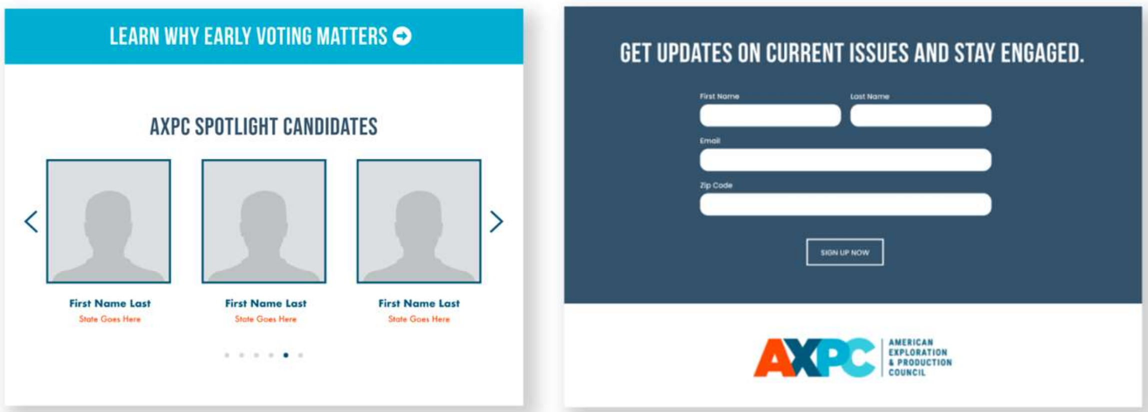



*As of April 5, 2024*





POLITICAL WEBSITE MOCKUP

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POLITICAL WEBSITE MOCKUP

**AXPC thanks Chesapeake Energy for hosting this meeting!**

**Special thanks to:**

Gracie Kroutil
Amy Williams
IT Department
& the entire Chesapeake Team

# Appendix

**AXPC Draft Strategic Plan for Executive Committee Discussion & Revision**

**Definition of Strategic Plan Elements**

MISSION
What you do and for whom.

STRATEGIC PRIORITIES
Enduring themes or focus areas that drive AXPC towards the mission.

STRATEGIC OBJECTIVES
Action-oriented statements of intent that support the strategic priorities; specific accomplishments to pursue over the plan horizon.

STRATEGIC OUTCOMES
What AXPC aspires to achieve through the plan — the impact on the association, members and industry at large.

STRATEGIC INITIATIVES (to come later, after strategic plan is approved)
Time-bound projects, programs and activities that are developed, funded and monitored to meet performance targets.

**Drafts for Review & Discussion**

**AXPC MISSION [current mission, no changes recommended]**
AXPC is the voice of the leading independent US energy producers. We promote the inherent value of American-made oil and natural gas.

We educate and advocate for responsible upstream development and constructive federal solutions with policymakers, industry partners, and the media. We actively support our members' commitment to continuous improvement.

**AXPC STRATEGIC PRIORITIES**

**Public Policy Influence & Capacity:** Expand AXPC's ability to advance federal public policy that enhances energy security and the responsible exploration and production of domestic oil and natural gas

**Awareness & Education:** Highlight the US oil and natural gas industry's profound contributions to the economy, global security, commitment to sustainable operations, and accountability for addressing environmental challenges and risks

**Membership Value:** Continue to provide the forum for independent US energy producers to connect, share expertise and learnings, and pursue continuous improvement

**Organizational Excellence:** Enhance AXPC's business model to ensure continuity in leadership, depth of expertise, and adequate financial resources in an era of rapid change and increasing competition

## STRATEGIC OBJECTIVES & OUTCOMES

### PUBLIC POLICY INFLUENCE & CAPACITY

*Expand AXPC's ability to advance federal public policy that enhances energy security and the responsible exploration and production of domestic oil and natural gas*

### OBJECTIVES

- Advance and support the oil and gas industry by monitoring federal policymaking and related industry issues to determine where and how AXPC can achieve maximum impact

- Advocate for oil and gas exploration and production by influencing favorable federal legislation and nurturing strong bipartisan relationships in the U.S. Congress

- Drive effective regulatory policies that allow upstream development and innovation, by building greater expertise and deeper connections with federal agencies

#### OUTCOMES

Members have pertinent, timely information on key policy developments impacting industry

Improved outcomes and mitigation of risks on key federal policy

Strategic, constructive, bipartisan engagements with Congress and regulators to improve awareness and knowledge of the upstream oil and gas sector and ensure that the sector's voice is heard on relevant policy issues

***Discussion Questions***

- *Is there anything else we need to consider in the strategic plan to build advocacy capacity?*
- *Is there benefit to AXPC engaging on the judicial side?*
- *Should AXPC consider expanding into state-level advocacy in the long term?*

## AWARENESS & EDUCATION

*Support AXPC's advocacy agenda by highlighting the oil and natural gas industry's profound contributions to the economy, global security, commitment to sustainable operations, and accountability for addressing environmental challenges and risks*

### OBJECTIVES

- Continuously educate policymakers on the economic and societal contributions of the oil and gas industry and its commitment to safety and protecting the environment
- Establish AXPC as a go-to media resource for highly credible data and expert spokespersons on identified priority issues impacting the upstream energy sector
- Equip AXPC members with tools, data, and messaging to educate and gain grassroots support from their workforce, local representatives, and the communities they serve
- Partner with other energy organizations and sectors that benefit from domestic oil and natural gas development, to grow awareness of the industry's unique contributions

### OUTCOMES

Pertinent data and information shared with federal policymakers and stakeholders through meaningful interactions

Rapid media outreach/response on critical issues and federal policy developments that impact the industry

Measurable growth in awareness and sentiment among targeted audiences on key issues

Deployment of AXPC-provided materials and messages by member companies

Strategic growth of established partnerships with identified organizations to increase awareness

### *Discussion Questions*

- *Is awareness and education something AXPC should expand? Will it dilute the core focus on public policy?*
- *At what level should AXPC engage — policymakers, media, grassroots, public?*
- *Would member companies be amenable to amplifying awareness through their constituents and will AXPC support in this area be effective?*

**MEMBERSHIP VALUE**

*Continue to provide the forum for independent US energy producers to connect, share expertise and learnings, and pursue continuous improvement*

**OBJECTIVES**

- Expand meetings and connection forums to enable networking, sharing of best practices, and advancing industry thought leadership
- Enhance industry benchmarking and the education and guidance offered to members on ESG issues
- Continue to track and summarize legislative and regulatory policy developments for members to support compliance and risk management
- Sustain and improve strong member communications on industry news and trends as well as internal policy discussions by AXPC board and committees

**OUTCOMES**

Increase in learning and networking opportunities, with higher member engagement and participation

Continued member satisfaction with the value of industry benchmarks and regulatory updates and guidance provided by AXPC

Sustained overall member satisfaction with AXPC, with established process for feedback and response

***Discussion Questions***

- *Can AXPC board members encourage more of their staff to leverage AXPC member benefits?*
- *What types of meetings and education opportunities would you like to see AXPC offer?*

## ORGANIZATIONAL EXCELLENCE

*Enhance AXPC's business model to ensure continuity in leadership, depth of expertise, and adequate financial resources in an era of rapid change and increasing competition.*

### OBJECTIVES

- Review member dues and governance model in the light of growing industry consolidation and increased expectations of AXPC members
- Develop a long-term recruitment and retention plan to supplement the work of current executive team, broaden expertise and experience, and retain talent
- Define, achieve, and maintain indicators for long-term organizational health and scalability
- Review the role of AXPC committees and align the structure with current industry issues and policy priorities

### OUTCOMES

Exploration of a new membership model to achieve long-term growth and sustainability for AXPC

90% retention rate for senior staff for 4 years from date of hire

Review and strengthen the operating budget and reserves

***Discussion Questions***

- *If we make NO changes to the membership model, will AXPC have adequate resources, especially if there are further industry mergers and acquisitions?*
- *Should we continue special assessments to supplement AXPC resources and activities?*
- *Should AXPC explore establishing an education foundation as a 501(c)(3)?*
- *Should AXPC expand membership to other industry segments that align with AXPC's mission — midstream sector, service sector, academia and think tanks, other…? How will expansion impact AXPC's culture and effectiveness?*
- *Is the hybrid sweat equity model sustainable and scalable? How can the model be strengthened?*
- *Are there other organizations AXPC can acquire or form deeper win-win partnerships with to optimize member company investments and expand capacity?*

**Government Affairs Update**

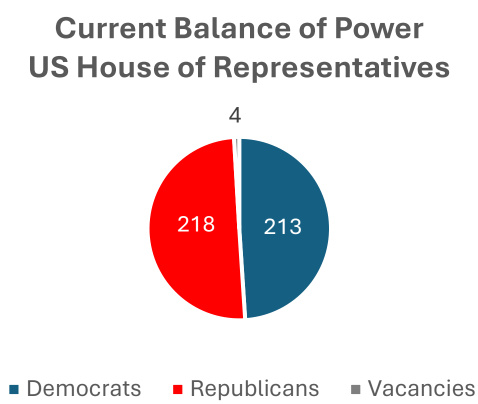
## HOUSE RETIREMENTS & A SHRINKING REPUBLICAN MAJORITY

Balance of Power

Congressman Mike Gallagher (R-WI) has announced his intention to step down from Congress on April 19th. This timing is too late in the year to conduct a special election to fill his seat, resulting in a reliably Republican district remaining vacant for the remainder of the Congress. Currently, the House is composed of 218 Republicans, 213 Democrats, and four vacancies. When Gallagher departs, House Republicans will hold just 217 seats.

Among these vacancies, three are in safe Republican seats held by Ken Buck (R-CO), Bill Johnson (R-OH), and Kevin McCarthy (R-CA). The fourth vacancy is in a safe Democratic seat held by Brian Higgins (D-NY).

The precarious Republican majority in the House has been a significant challenge for House leadership during the 118th Congress. The resignations from Republican representatives will further compound these challenges, as leadership will struggle to maintain unity within its conference. As a result, any major House legislation for the remainder of the 118th Congress will almost certainly require Democratic votes.




House Retirements

On average, 34 House members have chosen not to seek reelection in each election cycle over the last 75 years. This figure has ranged from a low of 21 members in 1956 to a high of 65 in 1992, with 49 members retiring in the previous cycle in 2022.[1] As of early April, nearly 50 House members have

[1] https://www.brookings.edu/articles/vital-statistics-on-congress/

announced their retirements at the conclusion of the current Congress. Among these retirees are members with significant seniority and leadership roles on committees.

- **House Energy & Commerce**: Chair Cathy McMorris Rodgers (R-WA) plans to retire at the end of the year, having served just one term as the head of the committee with the widest jurisdiction in Congress. This year, several senior members of the committee have either resigned or declared their intention to retire when the Congress concludes, leading to significant changes in its composition in 2025.

  Chair Cathy McMorris Rodgers' retirement announcement has prompted members of the committee to vie for the position of lead Republican in the 119th Congress. Congressman Brett Guthrie (R-KY) has declared his candidacy to succeed McMorris Rodgers as Chair in the upcoming Congress. Additionally, Congressman Bob Latta (R-OH), a long-standing member of the committee, has shown interest in assuming Rogers' role. Congressman Richard Hudson (R-NC), the current Chairman of the National Republican Congressional Committee, has also been mentioned as a potential successor to McMorris Rodgers.

  The resignations and early departures have had a significant impact and will continue to impact the most relevant subcommittees for the oil and gas industry. Former Congressman Bill Johnson (R-OH), who previously chaired the committee's Subcommittee on Environment, resigned from Congress to take up a position as a university president. This departure led to Congressman Buddy Carter (R-GA) becoming the top Republican on the subcommittee.

  Furthermore, Congressman Jeff Duncan (R-SC), Chair of the Subcommittee on Energy, and its Vice Chair, Congressman John Curtis (R-UT), will both leave the House at the end of the Congress (Curtis is running for the Senate), further affecting the committee's dynamics.

- **House Financial Services**: Chair Patrick McHenry (R-NC), who also served as the Speaker Pro Tempore, has announced his retirement at the conclusion of the 118th Congress. The committee he leads has jurisdiction over policies concerning banking, finance, insurance, ESG, and oversight of federal regulators (including the US Securities & Exchange Commission).

  McHenry, in his tenth term, assumed the top Republican position on the panel in 2019 and became chairman at the start of the 118th Congress. According to Republican conference rules, he would have required special permission to continue as chairman or ranking member of the committee in 2025. McHenry's retirement creates an opening for the top Republican position on the committee, which is considered a significant fundraising role for lawmakers. Subcommittee chairs on the panel are expected to have an advantage in the competition to succeed McHenry. This group includes Representatives Andy Barr (R-KY), French Hill (R-AR), and Bill Huizenga (R-MI).

- **House Appropriations**: In a surprise announcement last month, House Appropriations Chair Kay Granger (R-TX) revealed that she would immediately relinquish her position as the leading Republican on the committee. Granger had previously announced her intention to retire at the conclusion of the 118th Congress. Congressman Tom Cole (R-OK), who currently chairs the House Rules Committee, is anticipated to succeed Granger as the next Chair of the Appropriations Committee. If Cole indeed assumes the role of Chair of the Appropriations Committee, it would result in a vacancy at the House Rules Committee.

## SENATE

Senate Minority Leader Mitch McConnell (R-KY) announced his intention to step down from his leadership position in November 2024. Since 2003, Leader McConnell has held various roles including Senate Majority Whip, Senate Minority Leader, and Senate Majority Leader, making him the longest-serving party leader in US history. He was first elected to the US Senate in 1984.

Following Senator Mitch McConnell's announcement about stepping down from his leadership role, Senator John Barrasso (R-WY), the Republican Conference Chairman, announced his candidacy for the position of Senate Republican Whip the following week. Former President Donald Trump has endorsed Barrasso's candidacy for the next Senate Republican Whip.

The "three Johns" - Senators John Thune (R-SD), John Cornyn (R-TX), and John Barrasso (R-WY) - were initially seen as the primary contenders to succeed McConnell. Currently, Senate Minority Whip John Thune (R-SD) and former Republican Whip John Cornyn (R-TX) are actively vying for the top leadership position in the Senate Republicans, although there is a possibility of additional candidates entering the race. Other Senators running for lower-level leadership roles include Senators Cotton (R-AR), Ernst (R-IA), and Capito (R-WV).

## CONGRESSIONAL OUTLOOK

**Nominations:** President Joe Biden has nominated Judy Chang, David Rosner, and Lindsay See to serve as Commissioners on the US Federal Energy Regulatory Commission (FERC). If confirmed, the three would serve staggered terms, with Mr. Rosner and Ms. See filling the vacancies created by the departures of former Chairmen and Commissioners James Danly and Richard Glick, and Ms. Chang filling the seat currently occupied by Commissioner Allison Clements, whose term expires on June 30th.

Last month, the Senate Energy & Natural Resources Committee conducted a cordial hearing on the three nominees. Chair Joe Manchin (D-WV) aims to fast-track the approval of these nominees through his committee and then in the full Senate.

**Appropriations**: Last month, the president unveiled his fiscal year 2025 budget proposal. In terms of the budget process, the president presents a budget proposal, but Congress ultimately holds the authority over spending levels through the appropriations process. Members of the president's cabinet will appear before their respective appropriations subcommittees and authorizing committees to justify the administration's budget request.

Of note, the President's FY 2025 budget proposal eliminates certain tax provisions related to oil and gas including repeals of 1) the expensing of Intangible Drilling Costs, 2) the amortization of Geological and Geophysical Costs, and 3) the Percentage Depletion for Oil and Gas Wells. Fortunately, in a divided government, none of these tax increases will advance.

**Permitting:** Despite a minor victory in permitting during the 2023 debt negotiations, finding bipartisan consensus on significant permitting reform has remained challenging for the 118th Congress. The likelihood of a bipartisan agreement on permitting in 2024 remains low, although key lawmakers are continuing negotiations within their respective parties' demands. The main challenge lies in finding a compromise that addresses judicial reforms and promotes the expansion of transmission capacity for renewable energy projects. Congressman Scott Peters (D-CA) is circulating an outline aimed at achieving this objective. He has partnered with House Natural Resources Chairman Bruce Westerman (R-AR), and they have resumed negotiations initiated in 2023 to draft a permitting bill.

Meanwhile, Senators Tom Carper (D-DE) and Shelley Moore Capito (R-WV), leaders of the Senate Environment & Public Works Committee, have been in regular discussions about the parameters of a permitting deal; however, they are still far from reaching an agreement. Carper, who has been hesitant to tackle permitting reform beyond renewable projects, will retire at the end of this Congress. Time constraints are a concern for other key lawmakers who will retire at the end of this Congress, notably Senate Energy & Natural Resources Chair Joe Manchin (D-WV). Assuming Senator John Barrasso (R-WY) is elected as Republican Whip next Congress (which is expected), the Ranking Member of the Senate Energy & Natural Resources Committee would have to vacate his position as the Committee's top Republican.

Political considerations will play a significant role in determining the fate of permitting reform in 2024. Congressional Republicans are unlikely to agree to a deal that would be seen as a win for Democrats and President Biden during an election year. This echoes a similar situation in the past, where a bipartisan immigration deal was thwarted by former President Donald Trump. Congressman Kelly Armstrong (R-ND), who is retiring from Congress to run for governor, expressed skepticism about the possibility of significant permitting restructuring during a presidential election year. However, he suggested that a narrower permitting measure might have better chances of success. Overall, the outlook for achieving bipartisan permitting reform in the near future remains slim.

**Taxes:** Earlier this year, the House passed the "Tax Relief for American Families and Workers Act" with an overwhelming bipartisan vote of 357-70. The narrow tax package was negotiated by House Ways & Means Chair Jason Smith (R-MO) and Senate Finance Chair Ron Wyden (D-OR) and includes research and development expensing, deductibility of business interest expenses (EBITDA), and 100 percent bonus depreciation of certain capital expenditures.

The bill is currently stalled in the Senate after many Republicans have expressed several concerns with the process, policies, and politics surrounding the bill.

- Process: Senate Republicans do not want to simply take up the House-passed bill; they want the Senate Finance Committee to hold a markup to allow a process for amendments to address some of the Republicans' concerns.

- Policies: House-passed bill delinks the Child Tax Credit (CTC) and work requirements; a major issue for Republicans. Given the importance of the CTC to Democrats, Republicans fear they would give up their leverage before Congress considers over $3 trillion worth of extensions of the Tax Cuts and Jobs Act in 2025.

- Politics: There is reluctance to deliver a win for the Democrats and the president in an election year. Former Senate Finance Chairman Chuck Grassley told reporters, "Passing a tax bill that makes the president look good, mailing out checks before the election, means he could be re-elected, and then we won't extend the 2017 tax cuts."

Chairs Smith and Wyden will continue working to find a path forward on their legislation; however, the obstacles for this narrow tax package might be too difficult to overcome. While it is possible that Majority Leader Schumer could hold a vote on the House-passed bill, it would likely fail given the concerns previously mentioned. Regardless of action this year, we expect significant tax activity to occur in 2025 when Congress considers the expiring tax provisions from the Trump-era "Tax Cuts and Jobs Act" (TCJA) that will impact corporations, individuals, and small businesses.

**Foreign Aid**: The Senate passed a $95 billion foreign aid package last month, with $60 billion allocated for Ukraine. However, House Speaker Mike Johnson (R-LA) has declined to hold a vote on the Senate-approved foreign aid package due to its absence of border security measures. Speaker Johnson indicated that the House would introduce its own version of an aid package after the Easter recess in the week of April 9th. Johnson mentioned that the bill will feature "significant innovations," such as redirecting seized assets of sanctioned Russian oligarchs to Ukraine and potentially providing loans to Ukraine.

Speaker Johnson hinted that his forthcoming aid package could include policies to address the Administration's LNG pause.  "We want to have natural gas exports that will help unfund Vladimir Putni's war efforts there." While Republicans support undoing the US Department of Energy's pause on LNG exports, it is likely not enough to move the right flank of the Republican caucus to support additional resources to Ukraine. Additionally, it's unclear if simply lifting the pause would have an impact, given there is no required timeline for DOE to act on export applications.

Former President Donald Trump took to social media to express his stance, "No money in the form of foreign aid should be given to any country unless it is done as a loan, not just a giveaway. It can be loaned on extraordinarily good terms, like no interest and an unlimited life, but a loan nevertheless." Some members, like Senator Lindsey Graham (R-SC), have embraced the idea. In contrast, the White House has criticized this approach to assisting Ukraine.

The foreign aid package has sparked intense debate within the Republican Conference, leading Congresswoman Marjorie Taylor Greene (R-GA) to threaten to file a privileged "motion to vacate" against House Speaker Mike Johnson as a warning against advancing the foreign aid package. While there is much dissatisfaction within the House Republican conference, it's unclear if the requisite number of Republicans would vote to vacate the Speaker's chair again.

**Congressional Review Act:** In the upcoming months, Congressional Republicans are anticipated to utilize the Congressional Review Act (CRA) to challenge a range of President Biden's regulations, including the various methane regulations. However, the success of these efforts is unlikely given the expectation that President Biden would veto any measures rolled back through the CRA. Additionally, Congress is likely to lack the necessary votes to override such a veto, making the prospect of overturning these regulations through this legislative route challenging.

**Miscellaneous:** Reauthorization of the Foreign Intelligence Surveillance Act, and the Federal Aviation Administration are the likely last big bills to be signed before September 30th. Beyond that, there's a massive laundry list of bills Senator Majority Leader Chuck Schumer (D-NY) could turn to, most of which are probably not lawmaking exercises, although a couple could become that. It is unclear how he will prioritize them, and if any of them will be brought to the floor over the next couple of months. They include, in no particular order:

- **Kids Online Safety Act/Children's Online Privacy Protection Act**
- **TikTok** House bill referred to Senate Commerce; Cantwell has alluded to having a hearing(s).
- **SAFER Banking**: This bill is a priority for Senator Jon Tester (D-MT) who is in a tough re-election.
- **Rail Safety**: Possible Schumer could try to move to it (S. Brown priority). Also unclear if this can get 60.
- **Artificial Intelligence**
- **China**
- **Farm Bill** (seems increasingly unlikely)

## UPDATED 2024 POLLING

**Trump v. Biden: Key States**[2]

| State | Trump | Biden | Spread |
|---|---|---|---|
| Arizona | 44% | 41% | Trump +3 |
| Georgia | 44% | 43% | Trump +1 |
| Michigan | 43% | 41% | Trump +3 |
| Nevada | 48% | 44% | Trump +4 |
| North Carolina | 43% | 39% | Trump +4 |
| Pennsylvania | 40% | 38% | Trump +2 |
| Wisconsin | 43% | 40% | Trump +3 |

Senate

| State | Republican | Democrat | Race | Spread |
|---|---|---|---|---|
| Arizona | Kari Lake 49% | Ruben Gallego 51% | Toss Up | Gallego +2 |
| Ohio | Bernie Moreno 41% | *Sherrod Brown 45% | Toss Up | Brown +4 |
| Pennsylvania | Dave McCormick 48% | *Bob Casey 52% | Lean D | Casey +5 |
| Texas | *Ted Cruz 51% | Collin Allred 45% | Likely R | Cruz +6 |
| Maryland | Larry Hogan 49% | David Trone 37 | Likely D | Hogan +12 |
| Montanna | Tim Sheehy 42% | Jon Tester 44% | Toss Up | Tester +2 |

*Incumbent

[2] https://projects.fivethirtyeight.com/polls/president-general/2024/arizona/

## House Race Ratings[3]

| Likely Democrat<br>16 D \| 1 R | Lean Democrat<br>12 D \| 1 R | Democrat Toss Up<br>11 D \| 0 R | Republican Toss Up<br>0 D \| 11 R | Lean Republican<br>0 Dem \| 8 R | Likely Republican<br>0 D \| 9 R |
|---|---|---|---|---|---|
| AL-02 NEW SEAT | *AK-AL Peltola* | *CO-08 Caraveo* | AZ-01 Schweikert | CA-45 Steel | *CA-03 Kiley* |
| CA-09 Harder | CA-47 OPEN (Porter) | ME-02 Golden | *AZ-06 Ciscomani* | CO-03 OPEN (Boebert) | CA-40 Kim |
| CA-49 Levin | CT-05 Hayes | MI-07 OPEN (Slotkin) | *CA-13 Duarte* | *IA-03 Nunn* | *FL-13 Luna* |
| FL-09 Soto | *IL-17 Sorensen* | MI-08 OPEN (Kildee) | CA-22 Valadao | *MI-10 James* | IA-01 Miller-Meeks |
| *FL-23 Moskowitz* | IN-01 Mrvan | *NC-01 Davis* | CA-27 Garcia | NE-02 Bacon | *MT-01 Zinke* |
| KS-03 Davids | MN-02 Craig | *NM-02 Vasquez* | CA-41 Calvert | PA-10 Perry | *NY-01 LaLota* |
| MD-06 OPEN (Tror | NV-03 Lee | OH-09 Kaptur | *NJ-07 Kean Jr.* | *VA-02 Kiggans* | PA-01 Fitzpatrick |
| *MI-03 Scholten* | *NY-18 Ryan* | *OH-13 Sykes* | *NY-04 D'Esposito* | *WI-03 Van Orden* | SC-01 Mace |
| NH-01 Pappas | *NY-22 Williams* | PA-07 Wild | *NY-17 Lawler* | | *TX-15 De La Cruz* |
| NH-02 OPEN (Kust | *OR-06 Salinas* | PA-08 Cartwright | *NY-19 Molinaro* | | |
| NV-01 Titus | *PA-17 Deluzio* | *WA-03 Perez* | *OR-05 Chavez-DeRemer* | | |
| NV-04 Horsford | TX-34 Gonzalez | | | | |
| *NY-03 Suozzi* | VA-07 OPEN (Spanberger) | | | | |
| *OH-01 Landsman* | | | | | |
| *OR-04 Hoyle* | | | | | |
| TX-28 Cuellar | | | | | |
| WA-08 Schrier | | | | | |

### AXPC ENERGY TRACKER

Check out AXPC's Energy Policy Tracker to see how members of Congress acted on select energy issues!

**AXPC's Energy Policy Tracker**

[3] https://www.cookpolitical.com/ratings/house-race-ratings

AMERICAN EXPLORATION & PRODUCTION COUNCIL

**LNG Congressional Letter Tracker**

| Letters Sent | | |
|---|---|---|
| Lead | Status | Notes |
| House Oversight Committee | Sent. March 27 | Request for Secretary Granholm to appear before the committee to justify the department's LNG pause. |
| House Oversight Committee | Sent. March 18 | Requested a staff-level briefing with the secretary and further information about how politics factored into the decision. |
| Reps. Carol Miller (R-WV), Henry Cuellar (D-TX), Guy Reschenthaler (R-PA), Vicente Gonzalez (D-TX), Alex Mooney (R-WV), Jim Costa (D-CA), Michael Cloud (R-TX), Mary Peltola (D-AK) | Sent. Feb. 23 | House Energy Exports Caucus letter asking the Appropriations Committee include a policy rider in the FY24 Energy & Water bill to prohibit funds from being used to modify public interest review standards for liquefied natural gas export approvals. |
| Senator Marco Rubio (R-FL) | Sent. Feb 13 | CRA inquiry |
| Reps. Reschenthaler (R-PA) and Cuellar (D-TX) to the Appropriations Committee | Sent. Feb 13 | Request no funds language in FY24 Energy & Water bill. |
| Senator Rick Scott (R-FL) | Sent. Feb 09 | Rubio<br><br>Rutherford, Donalds, Luna, Franklin, Bilirakis, Bean, Cammack, Salazar, Webster, Posey, Mills, Dunn, Diaz-Balart |
| Bipartisan House Energy Export Caucus | Sent. Feb. 05 | |
| Energy & Commerce Majority Republican Conference Letter | Sent. Feb. 05 | 150 House Republicans |
| Congressman Marc Veasey | Sent Feb. 01 | Signature—Davis (D-NC), Cuellar (D-TX) Costa (D-CA), Peltola (D-AK), Gonzalez (D-TX), Correa (D-CA), Allred (D-TX) Garcia (D-TX), Fletcher (D-TX. |
| Congressmen Dan Meuser (R-PA), Guy Reschenthaler (PA-14), Lloyd Smucker (PA-11), and Senator J.D. Vance (R-OH) | Sent Feb 01 | |
| Representatives Yadira Caraveo (D-CO), and Doug Lamborn (R-CO) | Sent Feb 01 | |
| Senator John Kennedy (R-LA) | Sent Jan. 19 | |
| Senator Bill Cassidy (R-LA) | Sent Jan. 26 | |

**AXPC**

- AXPC/API Joint Trades
- AXPC/API_ Joint Trades Support for H.R. 7176

**Regulatory Affairs Update**
April 2024

## Regulatory Landscape

As the Biden administration begins its reelection campaign in preparation for the November election, federal agencies will spend the next several months finalizing regulations considered critical to President Biden, including on climate and energy issues. Despite court challenges, industry pushback and congressional opposition, the Biden administration will continue to rollout regulatory proposals that are likely to place strict limitations on businesses and individuals with the goal of pushing policies that reduce emissions, conserve public lands, or protect endangered species to appeal to President Biden's environmentalist voter base.

The White House Office of Information and Regulatory Affairs (OIRA) published its 2023 "Fall" Regulatory Agenda on Dec. 6, 2023, outlining the actions agencies are planning to take over the next few months to advance President Biden's policy agenda. Regulations put forward by the Environmental Protection Agency (EPA), Department of the Interior (DOI), Department of Energy (DOE) and other agencies will impact the domestic oil and gas sector by restricting surface access, especially to public lands, increasing operating costs, mandating burdensome reporting requirements and adding new federal designations for protected land and sensitive species that overlap with industry operations.

## Issue Updates

### Methane and Emissions

**NSPS OOOOb / EG OOOOc**
On Dec. 2, EPA announced its final rule regulating methane emissions from the oil and gas sector, timing the rollout to coincide with ongoing international climate discussions at the COP28 summit in Dubai. The final rule, officially published March 7 of this year, updates the New Source Performance Standards (NSPS) regulations to control emitted methane and volatile organic compounds (VOCs) from oil and natural gas facilities. The rule creates a new Subpart OOOOb that specifies requirements for new, modified, and reconstructed facilities in the petroleum and natural gas production sector. And for the first time in the oil and gas sector, the rule creates a new Subpart OOOOc, which sets Emissions Guidelines (EG) for state programs to meet, largely imposing the same or similar requirements on existing sources as OOOOb places on new sources.

Overall, the rule establishes significant new requirements for emission control devices and flares, including restrictions around routine flaring (and prohibiting routine flaring at new/modified well facilities). It also requires comprehensive monitoring for methane leaks from well sites and compressor stations and a robust structure around alternative monitoring technologies. It also creates a novel program to empower EPA-certified third-party observers using *only* remote-sensing technologies to find large sources of emissions known as "super emitters." Findings will be published without initial attribution to public facing website, while nearby operators are required to investigate the event.

EPA predicts the final rule will reduce future methane emissions from the oil and gas industry by 80% (58 million tons through 2028). However, those reductions will come at a substantial cost: EPA estimates industry will spend $31B between 2024 and 2038 to comply with both OOOOb and OOOOc, which is estimated to be offset by $13B in salable natural gas recovered during the same period. The agency projects the final rule will yield a net benefit of approximately $97B over the same time period in climate and health benefits.

**Subpart W**

On August 1, 2023, EPA published the latest package of proposed changes to greenhouse gas (GHG) reporting requirements for oil and gas facilities under Subpart W of the GHG Reporting Program. In addition to incorporating updates that had begun in the prior year to account for evolution in oil and gas operations, this extensive proposal is aimed at addressing EPA's mandate under the Inflation Reduction Act (IRA) to revise the requirements of Subpart W to achieve two key objectives: (1) to ensure that calculations are based on latest empirical data and research; and (2) to accurately reflect the total methane emissions potentially subject to the waste emissions charge under the IRA's Methane Emission Reduction Program (MERP). Although directly related to the Inflation Reduction Act's (IRA) Methane Emissions Reduction Program (MERP), EPA says little in its proposal about how the methane fee will be structured, nor the potential impacts proposed Subpart W changes would have on estimated impacts of the program.

On March 6, a final rule package for Subpart W was sent to Office of Information and Regulatory Affairs (OIRA) to undergo required interagency review, one of the last procedural steps before an agency can publish its final rule. While AXPC supports updating Subpart W to better reflect industry progress on emissions and allow for improved use of empirical data to better estimate annual emissions from an operator's specific facility, we are still concerned about two key areas within the rule: flare emissions and methane slip emissions. Additionally, there are several instances where the Subpart W rule is misaligned with other ongoing or recently finalized rulemakings. Congress set a deadline of August 2024 for the agency to promulgate this rule, though the administration is expected to try and finalize it earlier in the summer to reduce the risk of a Congressional Review Act challenge.

**Waste Emissions Charge**

On Jan. 12, EPA announced a proposed rule to implement the methane fee established by the Inflation Reduction Act in its Methane Emissions Reduction Program (MERP). The methane fee, known more formally as the Waste Emissions Charge (WEC) applies a per ton charge on methane emitted from certain oil and gas facilities above a specified threshold in a given year. The proposed rule establishes the calculation methodologies and conversion factors that companies would be required to use for determining their exposure to the fee. The draft rule also includes EPA's take on congressionally directed exemptions in the statute for 1) compliance with NSPS OOOOb / EG OOOOc; 2) scenarios of unreasonable delay in the permitting of needed infrastructure; and 3) wells that have been plugged in the reporting year.

The rule proposal was more tempered than folks expected, with some of the most significant concerns rooted more in the implications of the separate Subpart W rulemaking. Larger issues exist with the guidance on netting emissions across parent companies and their subsidiaries, the fundamental inequity between production types (mostly oil versus mostly natura gas production), and unworkability of the so-called compliance exemption. The EPA estimates that the WEC would be imposed on less than 15% of national methane emissions from petroleum and natural gas systems. However, EPA's estimates failed to account for the implications of its own proposed revisions for Subpart W, which it chose to take on in a separate rulemaking and has been estimated by some will triple reported methane emissions if finalized as proposed. And EPA's estimate assumes heavy use of the compliance exemption after year 2027, when in reality its process requirements are likely to prevent it ever truly materializing. The agency is set to finalize the reporting rules and fees later this year, with fee payments potentially due as early as March 2025 on Reporting Year 2024 emissions.

## Federal Nexus and Minerals Management

### NEPA

The National Environmental Policy Act (NEPA) charges the Council on Environmental Quality (CEQ) to provide guidance and procedures to federal agencies on the implementation of NEPA. CEQ initially issued interim guidelines in April 1970 and revised the guidelines in 1971 and 1973. These regulations have remained in place (with some minor amendments in the 1970's and 80's) until they were revised in July 2020 by the Trump Administration. Subsequently, the Biden Administration engaged in a comprehensive rewrite of the 2020 regulations, consistent with Executive Order 13990, *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*, issued on January 20, 2021, day one of the Biden Administration.

On April 20, 2022, CEQ issued the Phase 1 Final Rule, which generally restored regulatory provisions that were in effect prior to the 2020 rulemaking and indicated that it intended to engage in a Phase 2 rulemaking to add substantive requirements. Interrupting this process in 2023, Congress amended NEPA in the Fiscal Responsibility Act of 2023 (FRA). The FRA amended NEPA to help streamline the agency permitting process for infrastructure projects. President Biden signed the FRA into law on June 3, 2023. CEQ has largely ignored the amendments to NEPA made in the FRA. On July 28, 2023, CEQ announced a Phase 2 Notice of Proposed Rulemaking—the "Bipartisan Permitting Reform Implementation Rule"—to revise its regulations for implementing the procedural provisions of NEPA.

In stark contrast to the measures aimed at promoting efficiency enacted in the FRA, the proposed CEQ Phase 2 rule includes numerous features that are more about imposing substantive requirements on project applicants during the agency's environmental reviews, including an enhanced ability for agencies to demand mitigation of environmental impacts and imposing requirements on agencies to broadly consider climate change related effects when determining whether an application should be granted by the agency. CEQ's final Phase 2 rule is expected to be published prior to May 2024.

### BLM Waste Prevention Rule

In 2022, the Bureau of Land Management proposed a new Waste Prevention Rule. BLM previously issued regulations to regulate venting and flaring from production on public and Indian lands in 2016 and 2018, which resulted in lengthy litigation and both rulemakings ultimately being struck down and criticized by progressive and conservative judges. On March 27, 2023, BLM released a prepublication of its final rule Waste Prevention Rule, after reviewing and responding to comments to the 2022 proposal. Under this final rule, BLM has somewhat curbed its intent to regulate facilities used for production from public and Indian lands by withdrawing regulations related to pneumatics and VRUs, however the agency still seeks to vigorously regulate the venting and flaring of production.

In doing so, BLM expands operator production reporting and recordkeeping requirements and the Department of Interior (either through BLM or the Office of Natural Resources Revenue) may impose significant penalties against operators, including the ability to shut-in or curtail production or later pursue lease cancelation under existing provisions of the Mineral Leasing Act when an operator fails to "use all reasonable precautions to prevent waste of oil or gas developed." BLM states in the preamble to the final rule that this standard is higher than a negligence standard and will require more from operators than typical prudence, indicating the oil and gas operators now have a higher standard of care to reduce waste when producing from federal and Indian oil and gas leases. The final BLM Waste Prevention Rule will be effective 60 days after the rule is published in the Federal Register. However, many provisions contained within the rule have phase-in dates that may vary from 6 – 18 months.

**BLM Conservation & Landscape Health**

Proposed in March of 2023, the draft BLM Conservation and Landscape Health rule would overhaul a variety of existing land-management procedures at the BLM. The rule would give the agency clear authority to "prioritize the health and resilience of ecosystems" across the nearly 250 million acres of federally owned land it oversees, including express requirements for the agency to maintain and prioritize intact landscapes. Agency officials and supporters of the rule say it would place conservation on par with other industrial uses of federal lands in the land planning process. The proposed rule gives BLM the ability to issue 10-year leases to third-parties for the conservation of lands, increases the agency's ability to designate Areas of Critical Environmental Concern without public notice and comment, and allows for BLM to requirement compensatory mitigation to compensate for environmental impacts to public lands.

The BLM is expected to release a final version of this rule before May 2024. Once the final rule is in effect, BLM then intends to amend many Resource Management Plans (the planning documents used by BLM to dictate where mineral development and other uses are deemed appropriate). It is believed that the final BLM Conservation and Landscape Health Rule could be used as a backdoor method to unofficially withdraw lands from extractive uses by the agency.

**BLM Fluid Mineral Leases and Leasing Process Rule**

On July 24, 2023, the BLM proposed a rule to revise the BLM's oil and gas leasing regulations. This proposed rule covers a lot of different topics and requirements. Among other things, the proposed rule would reflect provisions of the Inflation Reduction Act (IRA) pertaining to royalty rates, rentals, and minimum bids, and would update the bonding requirements for leasing, development, and production. Specifically, the proposed rule would implement changes pertaining to royalty rates, rentals, and minimum bids for BLM-issued oil and gas leases and would update the bonding requirements for leasing, development, and production.

In the proposal, BLM seeks to raise the minimum bonding requirements by a factor of 15 for individual federal leases, raising the minimum amount from $10,000 to $150,000, and by a factor of 20 for statewide bonds, raising the minimum amount from $25,000 to $500,000. The proposal, which would require the updated bonding amounts in place 1 year after the final rule's effective date for individual lease bonds and 2 years after enactment for statewide bonds, also removes the option for unit and nationwide bonds. These proposed bonding amounts are based on companies operating on-average 7 wells/operator and there is language in the rule that would allow BLM to increase bonding amounts if bonding is deemed inadequate. The proposed rule also changes the term of APDs to 3 years and introduces a new "preference criteria" during the federal oil and gas leading process which would allow the agency to block lands from leasing and cancel pending lease sales. Industry expects a final rule to be released before May 2024.

**Greater Sage Grouse - Draft Resource Management Plan Amendment & EIS**

The greater sage-grouse (GRSG) is a state-managed species that depends on intact functioning sagebrush ecosystems. This expansive sagebrush landscape is managed by a mix of federal, tribal, state, and local agencies (e.g., counties and conservation districts), and private landowners. The BLM manages approximately half of GRSG habitat. The BLM recently announced a Draft Resource Management Plan Amendment (RMPA)/Draft Environmental Impact Statement (DEIS) to strengthen greater sage-grouse conservation and management on public lands. The proposal will amend Resource Management Plans for portions of California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, Utah, and Wyoming. The planning area includes nearly 121 million acres of BLM-administered public land, and the document contemplates amendments to 77 existing Resource Management Plans.

*Why does this issue matter to operators outside of the 10-state area?* This new RMP proposal relies heavily on the use of no surface occupancy conditions of approval and expands use of compensatory mitigation in a precedential way. National trade associations are contemplating whether they should be involved in the comment process. The draft environmental impact statement and plan amendments are currently open for public comment on March 15, 2024.

**ESA**

On June 4, 2021, the U.S. Fish and Wildlife Service (FWS) and the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) announced a plan to bolster implementation of the Endangered Species Act (ESA). The plan included a set of proposed actions that follow Executive Order 13990 *Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis.* Pursuant to that plan, on June 22, 2023, the FWS proposed two joint rules: (1) to clarify and improve how the agencies make listing, delisting, reclassification decisions and critical habitat designations under section 4; and (2) to improve and clarify interagency cooperation under section 7. Additionally, the FWS proposed reinstating the 4(d) “blanket rule” option that was in place before 2019 to protect threatened species. Final rules were submitted to the Federal Register for publication on March 27, 2024.

In 2024, it is expected that FWS could announce various actions to list threatened or endangered species and some of these listings could impact operations. Listing proposals and land management changes by BLM could be used to exclude lands from future development. Member companies may be interested in identifying species that could impact development in several states where facts about surveys and scientific studies need to be collected and better communicated to FWS staff to try to help fight widespread impacts to development and/or compensatory mitigation requests.

**<u>Financial Regs</u>**

**SEC Climate Risk Disclose Rule**

On March 6, the Securities and Exchange Commission (SEC) voted along party lines to finalize rules to enhance and standardize climate-related disclosures by public companies and in public offerings (SEC Climate Rule). The SEC Climate Rule imposes significant new requirements and obligations on publicly traded member companies. However, there were many notable improvements from the 2022 proposed rule, including priority issues focused on within AXPC advocacy efforts. For example, in contrast to the proposed rule, the final version does not require greenhouse gas (GHG) Scope 3 emissions disclosures, and materiality qualifiers have also been added to many categories of requirements. Additionally, the final rule provided flexibility for reporters to choose the “operational control” method for determining which entities are included Scope 1 and Scope 2 emissions calculations; and expanded safe harbor for forward looking statements.

Still, the final rule creates a new subpart 1500 of Regulation S-K and Article 14 of Regulation S-X and, like the proposed rules, certain aspects of the final rules build on concepts contained in the Task Force on Climate-related Financial Disclosures (TCFD) reporting framework and the GHG Protocol. However, financial statement disclosure requirements will be less extensive, and reporters will have more time to implement the disclosures and related assurance requirements and required Reg S-X (financial statement disclosures) are narrowed only to costs and expenditures and only for severe weather events, not transition risks. The rule takes effect on May 28, 2024, with large, accelerated filers having the earliest obligation to report on the S-X and S-K provision for FY2025.

Since its finalization, the rule has faced an array of lawsuits, including from the U.S. Chamber of Commerce and the Sierra Club, as some feel the rule went too far, while others feel the rule did not go far enough. The 5th Circuit enacted a stay, temporarily halting the rule, on March 15, but that stay was dissolved March 22 when through the procedural lottery the 8th U.S. Circuit Court of Appeals in St. Louis was selected to hear nine lawsuits challenging the rule on a consolidated basis. It was estimated that the 8th Circuit would grant a similar stay, which may be why on April 4th, SEC announced it voluntarily agreed to stay implementation of its final rule. The SEC statement said the agency would continue "vigorously defending" the rule, but said a stay would allow "the orderly judicial resolution of those challenges and allow the court of appeals to focus on deciding the merits."

Even with the ongoing litigation, it is expected that the SEC will continue at the staff level to move forward with a process for providing clarity to market participants on aspects of the final rule that are ambiguous, likely through a combination of generally applicable Frequently Asked Questions (FAQs) and targeted relief through no-action letters. Should the Climate Rule become effective, it will likely be important for companies to have AXPC participate in these implementation efforts.

**SEC ESG Funds Rule**

In May 2022, SEC proposed rules to categorize certain types of ESG strategies broadly and require funds and advisers to provide more specific disclosures in fund prospectuses, annual reports, and adviser brochures based on the ESG strategies they pursue. Funds focused on the consideration of environmental factors generally would be required to disclose the greenhouse gas emissions associated with their portfolio investments. Funds claiming to achieve a specific ESG impact would be required to describe the specific impacts they seek to achieve and summarize their progress on achieving those impacts. Funds that use proxy voting or other engagement with issuers as a significant means of implementing their ESG strategy would be required to disclose information regarding their voting of proxies on particular ESG-related voting matters and information concerning their ESG engagement meetings. We expect that SEC will finalize this rule in Q2 or Q3 of 2024.

**SEC – NYSE Application for Natural Asset Company Listings (pulled back)**

In September 2023, the New York Stock Exchange (NYSE) proposed new listing standards for a type of public company called a "Natural Asset Company" (NAC), which would focus on managing, maintaining, restoring, and growing natural assets and their ecosystem services. The proposal included governance and reporting requirements tailored to NACs, such as specific provisions in corporate charters, new policies, and a reporting framework including mandatory "Ecological Performance Reports.” It is believed that NACs could be used to finance conservation leases being proposed by the Bureau of Land Management (BLM) in its proposed Conservation and Landscape Health rule. However, the SEC withdrew the proposal in January 2024 after receiving negative feedback from regulators, market participants, and others. Criticism included concerns about the proposal's impact on public lands, potential for abuse, and alleged conflicts of interest. Nevertheless, we expect NACs to continue to receive attention as advocacy groups look for ways to raise capital for conservation purposes.

**PCAOB Noncompliance with Laws and Regulations Proposal**
In June 2023, the Public Company Accounting Oversight Board (PCAOB) introduced a proposal that aims to broaden auditing standards by requiring auditors to assess a company's compliance with laws and regulations alongside financial impacts. The proposal mandates auditors to identify noncompliance risks, consider fraud in the definition of noncompliance, and remove distinctions between direct and indirect financial impacts of noncompliance. AXPC joined with the US Chamber of Commerce to provide public comments against the proposal. PCAOB has not taken additional actions since the comment period closed in August of 2023. However, the proposal will require SEC sign off before finalization.

**Treasury Climate-Related Financial Risk Insurance Request for Gaps in Insurance**
In President Biden's Executive Order 14030, Biden called on the Federal Insurance Office (FIO) to "assess climate-related issues or gaps in the supervision and regulation of insurers" and "further assess, in consultation with States, the potential for major disruptions of private insurance coverage in regions of the country particularly vulnerable to climate change impacts." In August 2021, the Treasury Department issued a Request for Information to gather input on gaps in supervising insurers' climate risks. Treasury also sought to explore how insurance can be used to encourage mitigation and resilience efforts. In June of 2023, FIO published a report on climate-related risks and gaps in insurance supervision. To supplement their previous findings, Treasury convened a roundtable of insurance industry stakeholders this March to discuss how increasing risks from climate change are affecting U.S. insurance markets. We expect Treasury to continue to engage on these issues and focus on the impacts of climate on the insurance markets.

# Fossil fuel industry unleashes on Biden for halting key natural gas projects.

By Thomas Catenacci

https://www.foxnews.com/politics/fossil-fuel-industry-unleashes-biden-halting-key-natural-gas-projects

Published January 25, 2024
Fox News

A large coalition of more than 30 fossil fuel industry associations is raising the alarm over an expected White House decision to delay permitting for key natural gas export facilities over their potential climate impacts.

The groups — including the American Petroleum Institute (API) and American Exploration and Production Council (AXPC) — penned a letter to Energy Secretary Jennifer Granholm, saying the actions would be a "major mistake," harming U.S. jobs and putting allies at risk. The letter came shortly after The New York Times reported President Biden will soon order climate impact analyses for 17 proposed liquefied natural gas (LNG) export terminal projects.

"The United States is the world leader in natural gas production, meeting record domestic demand and becoming the top exporter of LNG in 2023," the joint letter stated. "Our nation's abundant supply of natural gas is an impactful geopolitical tool, helping insulate American consumers from increasing global instability while advancing American national interests and ensuring the energy security of key U.S. allies."

"Moving forward with a pause on U.S. LNG export approvals would only bolster Russian influence and undercut President Biden's own commitment to supply our allies with reliable energy, undermining American credibility and threatening American jobs," they continued.

According to industry, LNG export facilities are vital to meet energy demand in Europe and Asia as nations look to wean off Russian natural gas supplies. In the weeks following Russia's invasion of Ukraine in early 2022, Biden traveled to Europe and struck a deal with the European Union, vowing to send more U.S. LNG to the bloc.

And this month, energy associations Eurogas and the Asia Natural Gas & Energy Association (ANGEA) issued strong statements of support for continued permitting of U.S. LNG export terminals. Eurogas reiterated such exports were critical for ensuring the full phase down of Europe's dependence on Russian natural gas, while ANGEA added U.S. LNG is needed to meet Asia's decarbonization goals.

However, the New York Times report Wednesday, citing three unnamed officials with knowledge of internal deliberations, stated Biden would require the Department of Energy (DOE) to conduct a more rigorous environmental review process for 17 pending LNG export terminals.
While the DOE still needs to sign off on the proposed projects' permits, it was not previously required to analyze their contribution to climate change. The agency has never before rejected a gas export application on climate grounds.

"This would be a win for Russia and a loss for American allies, U.S. jobs and global climate progress," API CEO Mike Sommers said in a statement. "There is no review needed to understand the clear benefits of U.S. LNG for stabilizing global energy markets, supporting thousands of American jobs and reducing emissions around the world by transitioning countries toward cleaner fuels."

"This is nothing more than a broken promise to U.S. allies, and it's time for the administration to stop playing politics with global energy security," he said.

In addition, proponents of increased LNG exports have noted that transitioning the world's economy to more natural gas reliance would also help ensure nations meet decarbonization goals. Without increased LNG, they argue, nations would rely more heavily on coal-fired power generation, which has a much larger carbon footprint when burned than natural gas power generation.

The industry letter to Granholm noted that the U.S. has led the world in carbon emissions reductions thanks in large part to greater reliance on natural gas. Coal produced the largest share of electricity generated in the U.S. for decades until 2015 when natural gas surpassed it.

"America should be exporting more LNG not less, and any action or future plan to hinder American LNG exports, including the White House's reported pause on CP2, is misguided policy that undermines the US economy, our allies' security, and global emissions goals," AXPC CEO Anne Bradbury said in a statement.

Among the projects that would be impacted by the DOE's review is the so-called Calcasieu Pass 2 (CP2) project, a proposed $10 billion LNG terminal located on a 546-acre site in Cameron Parish, Louisiana, which would be the largest export terminal of its kind in the nation.

According to its developer Venture Global, the facility would have a nameplate export capacity of 20 million metric tonnes per annum (MTPA) of LNG and a peak capacity of about 24 MTPA. In 2023, the U.S. exported 88.9 MT of LNG, according to a FOX Business analysis of tanker tracking data, meaning the CP2 facility would alone increase exports by a staggering 23%.

"It appears that individuals within the White House are trying to force policymaking through leaks to the media. This continues to create uncertainty about whether our allies can rely on US LNG for their energy security," Shaylyn Hynes, a spokesperson for energy developer Venture Global, said in a statement. "If this leaked report from anonymous White House sources is true, it appears the Administration may be putting a moratorium on the entire U.S. LNG industry."

"Such an action would shock the global energy market, having the impact of an economic sanction, and send a devastating signal to our allies that they can no longer rely on the United States," Hynes added. "The true irony is this policy would hurt the climate and lead to increased emissions as it would force the world to pivot to coal."
Thomas Catenacci is a politics writer for Fox News Digital.

## House moves to end Biden administration's LNG pause

By James Osborne, Washington Bureau

https://www.houstonchronicle.com/business/energy/article/lng-pause-bill-house-biden-pfluger-18670008.php

Feb 15, 2024

WASHINGTON — The House of Representatives passed legislation attempting to end the Biden administration's pause on the permitting of new LNG projects amid opposition from oil and gas companies and allies abroad.

The bill, introduced by Rep. August Pfluger, R-San Angelo, passed the House 224-200, with nine Democrats voting yes, including Reps. Henry Cuellar of Laredo, Vicente Gonzalez of McAllen and Marc Veasey of Fort Worth.

"President Biden has used every weapon and every tool available to him to make producing American energy more difficult," Pfluger said in a statement. "His decision to ban future U.S. LNG exports is just the latest strike in his efforts to appease his radical climate interest groups who refuse to accept the reality that American energy is the cleanest, most secure option for the U.S. and our allies."

The Biden administration announced last month that the Department of Energy was pausing permitting of new liquefied natural gas export terminals in order to incorporate growing data about the dangers of methane pollution into its analyses.

"Understand methane is 80 times more potent (than carbon dioxide), and it perhaps represents up to half of degree of the warming that has already been witnessed around the world," said Ali Zaidi, national climate adviser to President Joe Biden. "Joe Biden is unafraid to take bold action and make necessary change."

The bill passed Thursday would repeal all restrictions on natural gas imports and exports and give sole authority over export licenses to the Federal Energy Regulatory Commission. Anne Bradbury, CEO of the oil sector group American Exploration & Production Council, praised the bill as ensuring "that US LNG export approvals do not become a political football."

But with only limited Democratic support, the legislation faces a difficult path in the Democrat-controlled Senate.

## Will Biden shock global market with LNG stop sign?

By **Brian Dabbs, Carlos Anchondo**

https://www.eenews.net/articles/will-biden-shock-global-market-with-lng-stop-sign/#:~:text=%E2%80%9CThis%20continues%20to%20create%20uncertainty,the%20world%20turns%20to%20coal

01/25/2024 06:47 AM EST

The future of new U.S. liquefied natural gas export projects will be shaped by decisions in the Biden administration.

Supporters of U.S. natural gas exports are blasting the White House over reports the Biden administration could stall a decision on a contentious gas terminal planned for the Louisiana coast, saying such a move would disrupt global energy supplies.

The White House has directed the Department of Energy to widen its review of the Calcasieu Pass 2 project to consider the terminal's influence on climate change, *The New York Times* reported Wednesday. The CP2 project — which green groups are targeting as a symbol of a continuing reliance on fossil fuels — would liquefy and export 20 million metric tons of gas overseas per year from Louisiana's Cameron Parish.

The debate over LNG flared up earlier this month following a story from POLITICO, which said DOE was launching a review to see whether federal officials should consider climate change when deciding if a LNG export project is in the national interest. Industry trade groups have said the move is politically motivated — and that a review could ultimately hinder investment in the U.S. LNG sector.
"It appears that individuals within the White House are trying to force policymaking through leaks to the media," said Shaylyn Hynes, a spokesperson for CP2 developer Venture Global, in a statement Wednesday. "This continues to create uncertainty about whether our allies can rely on US LNG for their energy security."

Hynes said a potential moratorium on approvals for new U.S. LNG projects — if it happened — "would shock the global energy market" and lead to higher emissions as the world turns to coal.

The White House remained tight-lipped Wednesday, with White House assistant press secretary Angelo Fernández Hernández declining to comment.

The U.S. is already the world's largest exporter of natural gas, and the $10 billion CP2 project could boost daily U.S. LNG shipments by about 20 percent.

Since POLITICO first reported this month on potential changes at DOE, the agency has faced a cascading wave of letters about any updates to its criteria for LNG exports. Letters in opposition to a revamp at DOE have come from some lawmakers and oil and gas trade associations. They came from Sen. John Kennedy (R-La.), ranking member on the Energy-Water Appropriations Subcommittee, and the Partnership to Address Global Emissions (PAGE), whose membership includes natural gas producer EQT and pipeline firm Enbridge.

The head of the American Exploration and Production Council said Wednesday the United States needs to send more LNG overseas, not less.

"Any action or future plan to hinder American LNG exports, including the White House's reported pause on CP2, is misguided policy that undermines the US economy, our allies' security, and global emissions goals," said Anne Bradbury, CEO of AXPC, in a statement.

Also on Wednesday, more than 30 trade associations tied to LNG wrote to Energy Secretary Jennifer Granholm to push back against "any action to halt U.S. LNG export approvals." Signatories included the American Petroleum Institute, the Center for LNG and the Louisiana Mid-Continent Oil & Gas Association.

Supporters question why the DOE's reported focus is on CP2, a project that has yet to get full authorization from the Federal Energy Regulatory Commission**.**

FERC authorizes the siting and construction of LNG import and export facilities, while DOE approves export licenses to projects so they can export gas to countries that lack a free-trade agreement with the United States — a group that includes all European countries.

FERC is an independent agency that does not take orders from the White House, though presidents nominate commissioners and senators confirm them. Its next open meeting is scheduled for Feb. 15.

A FERC spokesperson did not respond to a question Wednesday about if CP2 would be on the agenda at its next opening meeting.

"Nobody has said anything official to anybody," said Fred Hutchison, CEO of the industry group LNG Allies, referring to Biden administration communication with LNG companies.

"We're reading these leaks that are coming out."
Hutchison pointed to several LNG projects that have already cleared FERC and are now awaiting DOE approval, including one led by Commonwealth LNG.

However, environmental groups have said President Joe Biden needs to make changes on LNG if he's going to seriously address climate change.

In an opinion piece published Wednesday by *The Washington Post*, Ben Jealous, the executive director of the Sierra Club, and Bill McKibben, founder of climate action group Third Act, said Biden needs to make good on a deal struck last month in Dubai, United Arab Emirates, that calls for transitioning away from fossil fuels starting this decade.

“There is no possible definition of that phrase that is compatible with a massive buildout of LNG export capacity,” Jealous and McKibben said in the piece. “If President Biden doesn’t do what he can to halt this expansion, then those were clearly just words on paper.”

In an interview Wednesday, Mahyar Sorour, the Sierra Club’s director of its Beyond Fossil Fuels policy, said if DOE’s criteria around LNG and the public interest is updated and modernized, the agency would find that CP2 and “really any new LNG export facility” is not in the public interest.

For months, the White House has been hosting meetings with LNG critics. Collin Rees, U.S. program manager at the environmental group Oil Change International, said the group urged the White House to restrict LNG during multiple meetings recently.

Meanwhile, Michael Greenberg, founder of the group Climate Defiance, said he met with White House clean energy adviser John Podesta, in December. Climate Defiance activists protested senior Biden administration officials like Podesta repeatedly throughout 2023.

“If the reports are true, this is a big, big step in the right direction. It shows the power of direct action in catalyzing sweeping changes,” Greenberg said in an interview, urging the White House to curtail oil exports as well.

LNG companies often refer to a 2018 DOE-commissioned study to bolster their case for exports. The study, which DOE sought to “inform its decision on pending and future applications,” identifies LNG as a boon to the U.S. economy.

A separate 2019 study on the climate change impacts of LNG, conducted by the DOE-affiliated National Energy Technology Laboratory, found that U.S. LNG exported to Europe and Asia produce less greenhouse gas emissions than coal produced and consumed in those regions. DOE often cites the findings in LNG export approvals.

Environmentalists say the studies are outdated, and both LNG supporters and critics continue to study LNG life cycle emissions.

Tyson Slocum, director of the energy program at consumer advocacy group Public Citizen, said DOE needs to move carefully on new LNG climate regulations or it will run afoul of the courts.

“If the Department of Energy’s making any sort of significant change to the criteria [evaluated for approval], you’ve got to put that through a notice and public comment process," Slocum said. "Otherwise, the industry can say it was an arbitrary change, ... and courts, especially these days, would likely side with industry on that."

DOE did not respond to an E&E News request for comment Wednesday. In November, the department said its current approach to export reviews allows the agency "the flexibility to adapt to changing economic and environmental circumstances."

On Tuesday, a spokesperson for climate action and energy at the European Commission declined to comment on "internal discussions" within the Biden administration, but said representatives from the EU body speak regularly with U.S. officials.

"The US has been a key ally and partner in our energy supply diversification efforts over the past two years, and has become our main LNG supplier," said Tim McPhie, a spokesperson at the European Commission, in an email.

McPhie added that increased LNG from the United States is part of a broader plan to phase out imports of Russian fossil fuels.

The U.S.-EU Task Force on Energy Security — formed in March 2022 roughly a month after Russia's invasion of Ukraine — last met in October 2023, McPhie said.

Last July, DOE denied a decade-old petition from environmental groups — including the Sierra Club and the Center for Biological Diversity — that called on the agency to bring about "new regulations or guidance defining the process by which it will consider applications to export" LNG. DOE issued the denial after the green groups filed a lawsuit.

Still, top White House officials indicate DOE has the authority to restrict LNG exports. "The department's got public interest determinations that they need to make based on a set of factors," White House national climate adviser Ali Zaidi told reporters at an event last week. "That's what the department needs to make an assessment on — how to apply those factors and what informs that."

The LNG debate holds relevance for the 2024 campaign, considering that former President Donald Trump and United Nations Ambassador Nikki Haley of the Republican Party have been attacking Biden's record on oil and gas.

On Wednesday, Senate Minority Leader Mitch McConnell said the White House would harm U.S. and allied interests with more strict regulations on LNG exports.

"At the behest of climate activists, the administration is now considering adding a 'climate test' to the 'national interest' analysis regulators conduct before approving new LNG projects," McConnell said on the Senate floor. "Never mind that climate interests all too often run in the exact opposite direction of America's national interests. This move would amount to a functional ban on new LNG export permits."

*The New York Times'* story Wednesday mentioned recent White House communication with Alex Haraus, a 25-year-old campaigner on TikTok and Instagram who has criticized the CP2 project.

LNG supporters blasted the reported interaction with Haraus, who couldn't be reached for comment by E&E News on Wednesday.

"If we're going to make decisions on how many TikTok and Instagram impressions somebody gets, then the Republic is in sad shape," said Hutchison of LNG Allies.

## Biden's LNG export embargo hurts farmers too

By Salena Zito

https://www.washingtonexaminer.com/opinion/columnists/2926905/bidens-lng-export-embargo-hurts-farmers-too/

March 18, 2024 6:13p

**LEBANON, Pennsylvania —** You may not be aware that there's a symmetry in Pennsylvania between farmers and the natural gas industry. But just walk into the Keystone Pork, Poultry Progress and Mid-Atlantic Manure Summit here at the expo center in Lebanon County, put your hands on the propane-shaped stress ball, and you'll start to understand it.

"Kind of tells you everything," said Chris Herr, the executive director of PennAg Industries Association, who was holding up the merchandise everyone received when they walked into the door.

Natural gas development over the past 15 years has had a significant impact on agricultural stakeholders in this state. The partnership between two leading economic sectors in this state, natural gas and farming, has led to farmers receiving royalty payments from natural gas companies in return for leasing out the minerals found on their lands.
So when President Joe Biden announced at the end of January that he was pausing all exports of natural gas, his decision not only chilled the producers and employees in the industry, but also equally distressed American farmers. This was particularly true of those here in Pennsylvania and neighboring Ohio, where hundreds of millions of dollars last year alone went to farmers and landholders who hold leases.

Herr said this source of income for farmers in the past few years here in Pennsylvania has been a game changer, "Especially for family farms. They are now provided a source of revenue to expand their operations, or invest in new equipment or technologies, and sometimes just to save a farm on the brink."

Jonathan Fritz, who has served in the Pennsylvania House of Representatives since 2017, said what he has seen in the rural swaths of Wayne and Susquehanna counties thanks to the natural gas industry has improved his constituents' overall quality of life, and "It has also contributed to young people to stay here rather than move away because of new opportunities."

In 2021, the Pennsylvania Independent Fiscal Office reported personal income growth was higher in shale-producing counties compared to non-producing counties.
The American Exploration and Production Council recently conducted a survey of Pennsylvania and Ohio gas-producing members of their trade organization to see the

number of landowners receiving royalties from production on their properties — mostly farms — and then took that data and estimated the share of gas that is exported as liquid natural gas.

A royalty payment is traditionally a percentage share of the production paid from a natural gas-producing well paid to families, farmers, and landowners.

The survey omitted the billions gas companies pay in taxes, fees, and charitable contributions to state and local entities as part of calculating the scope. The eight companies who answered the survey represent 93% of Pennsylvania production and 68% of all Ohio production of natural gas for the calendar year 2023.

In Pennsylvania more than $193 million was paid to farmers and landowners due to liquefied natural gas exports, and the amount paid in Ohio to landowners was $181 million.

Herr said that money doesn't just stay on the farm or in the family. "That money is out there being spent in the rural communities at local stores, barber shops, clothing stores, and it goes into the bigger cities where the farmer invests in new technologies and new equipment," he said. "It is significant and it is meaningful."

The pushback on Biden's pause has been notable. Pennsylvania's three major statewide elected officials, Sens. John Fetterman and Bob Casey Jr., and Gov. Josh Shapiro, all are Democrats as Biden is, but all three stridently oppose his decision.

"Everyone is looking at the impact on the industry as well as the national security, we also have to remember how it impacts our farmers and the economic opportunities they are going to lose out on," Herr said.

"Nearly $200 million is a lot of money," he said.

Anne Bradbury, CEO of the American Exploration and Production Council, said when America is the world leader in LNG exports, it isn't just the people in the industry that benefit, but everyone in the country does in ways they perhaps don't always think about.

"Not only do LNG exports strengthen our economy and our allies' energy security, but they also provide direct financial support to families, farmers, and landowners in the form of royalty payments," she said.

In 2023, Bradbury said more than 200,000 different recipients in Ohio and Pennsylvania received royalty payments. "And that is thanks to America's leadership in exporting LNG. Those payments help families, revitalize communities, and generate sustainable economic growth for this region of the country."

"Ohio and Pennsylvania lawmakers should unequivocally oppose and work to reverse the president's LNG freeze, as their constituents' livelihoods depend on a robust LNG export strategy now and in the future," Bradbury said.

Herr, meanwhile, added another concern.

"I think there is the other thing I think about when we put on LNG it also creates higher prices," he said. "When you stymie production, you raise prices and we've all seen the impact of when farmers have to raise their prices because of energy prices like the cost of diesel. We haven't begun to understand the economic costs this is going to have."

## Gas export pause could scramble Biden's chances in Pennsylvania

By JOSH SIEGEL

https://www.politico.com/news/2024/02/26/bidens-natural-gas-pennsylvania-democrats-unions-00143399#:~:text=Energy-,Gas%20export%20pause%20could%20scramble%20Biden's%20chances%20in%20Pennsylvania,pause%20could%20hurt%20their%20state.&text=President%20Joe%20Biden's%20decision%20to,essential%20swing%20state%20of%20Pennsylvania

02/26/2024 05:45 PM EST

Democratic Sens. Bob Casey and John Fetterman both argued the pause could hurt their state.

President Joe Biden's decision to pause new exports of U.S. natural gas is rattling his allies in the essential swing state of Pennsylvania.

Democrats and labor unions in the state fear that the energy's industry's huge footprint there could make it a ripe target for GOP front-runner former President Donald Trump — even as environmentalists praised the move as a brave political action to protect the climate.

Biden's reelection this year may hinge on whether he can hold the heavily working-class state he narrowly carried in 2020, which is now the second biggest natural gas producer in the country behind Texas. And while his move to reassess the climate impacts of natural gas shipments may have helped shore up support from young environmental activists, others are questioning his strategy.

Democratic Sens. Bob Casey, who is facing reelection this November, and John Fetterman, both argued the pause could hurt their state.

"Sen. Casey and I are very pro-energy, pro-job, pro-union and pro-American security," Fetterman told POLITICO. "We stand with the president, but on this issue we happen to disagree. I am very clear. Natural gas is necessary right now. It's a critical part of our nation's energy stack."

Republicans — including some who supported Biden over Trump — have said the gas export permit pause shows Biden is out of touch with working Americans.

"He calls himself Union Joe, but this decision to walk away from natural gas exports flies in the face of what he says about working class Americans," said former Rep. Charlie Dent, a moderate Republican who represented central Pennsylvania and endorsed Biden in 2020. “He must not think their support is as valuable as the younger voters he is courting right now.”

U.S. natural gas exports have surged in the past seven years as the fracking boom propelled production of the fuel to record levels. Companies are now shipping liquefied natural gas in tankers carrying more than 12 percent of that annual U.S. output abroad — a figure that is expected to at least double in the next few years as LNG plants that have already received permits come online.

Many Democrats in Congress have expressed concerns that the growing share of gas devoted to exports will raise domestic energy prices, while Republicans have sought to portray the pause as a “ban” on new shipments that hurts the U.S. industry and will slow global climate efforts.

The gas industry has created a split in Pennsylvania, turning some economically depressed communities in the western and northern parts of the state into boomtowns. But the drilling technology is effectively banned in the Delaware River water basin along the state’s northeastern border, where fears about drinking water contamination from wastewater have generated strong opposition.
Democratic Reps. Chris Deluzio and Susan Wild, who represent swing districts in the state and are top targets for Republicans looking to keep control of the House, have also told POLITICO they oppose Biden’s decision for how it could impact the 72,000 people that work in the natural gas industry there.

Pennsylvania sealed Biden’s victory in 2020, pushing him over the top in the Electoral College after he defeated Trump in the state by 80,555 votes, or 1.2 percent. Trump had won the state in 2016 by 44,292 votes, aided in part by Democrat Hillary Clinton’s remarks that “we’re going to put a lot of coal miners and coal companies out of business.” Though she went on to add that “we don’t want to forget those people,” her comments cost her support of Democrats in blue-collar union counties around Pittsburgh.

Jeff Nobers, executive director of the Builders Guild of Western Pennsylvania, told POLITICO that Biden’s decision to pause gas export approvals risks upsetting voters who played a key role in delivering him to victory in 2020.

Back then, Biden was able to persuade leaders of fossil fuel-heavy building trade unions in Pennsylvania that his promised climate agenda — the most aggressive ever for a presidential candidate — wouldn’t harm them. Even so, the president was forced to explain away some of his own words after an October 2020 debate with Trump, where Biden said that “I would transition away from the oil industry.”

“When you look at what happened last time, he was able to walk back some of the things that were said about banning natural gas. But now there is a four-year record,” said

Nobers, whose group represents a coalition of unions representing 60,000 workers and contractors in construction trades, many who work across the natural gas supply chain. Nobers, a Democrat, voted for Biden in 2020 after backing Trump in 2016, but he said he's now undecided about 2024 after the president's action curbing natural gas export permits. "He certainly hasn't done anything to promote or facilitate the use of natural gas and it's continued to be viewed as this evil thing," Nobers said. He acknowledged that the export permit freeze wouldn't affect the state's natural gas output any time soon, but Biden's "waffling" had him concerned.

Nobers said he is still committed to vote for Casey, in one of the key races that could determine control of the Senate, after being satisfied with his opposition to Biden's LNG pause.

Casey, who is seen as having a tougher-than-usual re-election race this year, told POLITICO he would try to offset GOP attacks tied to Biden's gas export permit pause by talking about energy investments that the Inflation Reduction Act and the bipartisan infrastructure law have enabled in his state.

That includes funding to support new technologies such as hydrogen and a battery factory tabbed for an economically depressed area near Pittsburgh.
"There's a potential now to make some positive arguments to a lot of those same communities [that have benefited from natural gas production]," Casey said. "We are already seeing some benefit from that we really didn't have when I was running in '18 and the president was running in 2020."

In an email, Biden's campaign noted that natural gas production and employment had both climbed during his term, and that the state's unemployment rate had fallen by half. "President Biden promised to create good-paying jobs for Pennsylvanians after Trump crashed our economy, and he's delivering thousands of union jobs across the state through investments in infrastructure and clean energy. Where Trump failed, President Biden is delivering for Pennsylvanians," Jack Doyle, the Biden campaign's Pennsylvania communications director, said in an email.

Green advocates in the urban centers that are heavily Democratic said they saw Biden's export permit freeze as a net gain for the president's campaign.

David Masur, executive director of Philadelphia-based advocacy group PennEnvironment, said the freeze would motivate young climate voters around the city and its suburbs.

"The president deserves credit for making a hard decision on something that's been kicked down the road," Masur said. "For youth voters it's one more card in the deck for the president to say 'I am the biggest climate advocate to ever have been in the White House.'"

And it could boost Biden's standing with environmental justice areas — the low-income populations and communities of color that have historically suffered disproportionately from industrial pollution.

predominantly black city of 35,000 people on the western bank of the Delaware River between Philadelphia and Wilmington where [an energy company is looking to build a gas export project that could get tied up in Biden's review](#).

Stefan Roots, the Democratic mayor of Chester, said he was "excited" and "surprised" by the president's decision, which he said could "practically kill the project" by dissuading investors.

"It's a huge win for us," Roots said. "We just don't need another dirty industry in our city." That averted pollution is more important than the impact on employment, he said, as few residents are likely to get jobs because the city lacks trained workers and has the lowest performing school system in the state.

But in a potential warning sign for Biden, Roots cautioned the president's action was unlikely to win over many voters in Chester, which usually draws low turnout. "Freezing this project in my city will not earn the president a single vote," Roots said. "It's not an issue top of mind to most residents here. This is a really poor city with quality of life issues. They are dealing with their day to day."

Christopher Borick, a professor of political science and director of the Muhlenberg College Institute of Public Opinion, said Biden's pause on gas exports may matter on the margins. The narrowly divided state's voters' views about fracking and natural gas fall largely along partisan lines: Most of the natural gas-producing regions are rural and Republican-leaning. According to a 2022 survey conducted by his institute, 67 percent of Republicans said drilling for natural gas would lead to "more benefits" for Pennsylvanians, compared with 28 percent of Democrats and 39 percent of independents.

"This is really a classic example of how Democrats in Pennsylvania have to walk a fine line in terms of their positions on energy and particularly natural gas," Borick said. "In a state that's so tightly divided and every little thing matters, how do you maintain a coalition of unions with lots of blue collar workers who have a stake in the natural gas industry, while pleasing a large portion of your Democratic base that's concerned about environmental matters and climate change?"

Despite producing about one-fifth of U.S. natural gas, the oil and gas industry contributes only a relatively small share of the state's gross domestic product — less than 5 percent. That means it is not as dominant there compared with less economically diverse states such as Wyoming, Alaska or Louisiana, said Kevin Book, managing director of ClearView Energy Partners, a D.C.based research group.

“This is a widely diversified economy,” Book said. “The Biden administration probably judged the under-30 voter cohort is large enough that a small gain there could offset any losses in the labor and industrial constituencies.”

Republicans, though, are confident Biden has made the wrong calculus, and have aggressively portrayed the president’s pause on gas approvals as reflecting the White House’s hostility toward fossil fuels and contrary to U.S. international interests.

“In some ways it has more potency than a fracking ban,” said former Rep. Ryan Costello, referring to unfounded claims made in 2020 that Biden would seek to prohibit the drilling technology.

“Why would he do this when this just benefits Russia and China? This just feeds into the wrong narrative for Biden in cultural and economic ways for voters who are already suspect of him,” said Costello, a centrist Republican who represented the Philadelphia suburbs until 2018.

**Joshua Siegel**
@SiegelScribe

New in ME: Dem Sen @SherrodBrown stakes middle ground on Biden LNG pause. In his first public comments on the move to me, Brown, facing tough re-election in red state Ohio, differentiates himself from Dems in other gas-producing states like Pa. who've come out firmly against it

**ME FIRST — SHERROD BROWN NAVIGATES LNG PAUSE:** Sen. Sherrod Brown of Ohio is staking a middle ground on the LNG permitting pause, differentiating himself from Democrats in other energy-producing states like Pennsyvalnia who've come out firmly against the controversial policy change.

"My focus is on protecting Ohio workers in the natural gas industry and Ohio manufacturers and lowering energy costs for all Ohioans — and I continue to review this rule and the impact it would have on achieving those goals," Brown said in a statement shared with our Josh Siegel that marked his first public comments on the pause. "I have concerns around letting American liquid natural gas fuel China's state-sponsored industries that consistently try to undermine American production."

Brown, who is in his third term representing Ohio, is a top target for Republicans in the battle for the Senate majority, as his state has drifted right over the past decade and made him the only statewide elected Democrat. He is known to have strong ties to unions in his state — a top 10 natural gas producer — that represents large numbers of energy workers and manufacturers.

Brown's concern around LNG exports potentially going to China could become a common argument used by Democrats to defend the pause, Kevin Book, managing director of ClearView Energy Partners, a research group, told Josh.

9:36 AM · Feb 13, 2024 · **19.1K** Views

https://twitter.com/SiegelScribe/status/1757413539101266098

# IEA's "Light at the End of the Tunnel" Would Be Brighter With U.S. Oil and Gas

By Anne Bradbury

https://www.realclearenergy.org/articles/2024/03/12/ieas_light_at_the_end_of_the_tunnel_would_be_brighter_with_us_oil_and_gas_1017787.html

March 12, 2024

**Questions abound about the agency's latest CO2 report**

The Paris-based International Energy Agency last week released its "CO2 Emissions in 2023, A new record high, but is there light at the end of the tunnel?" report showing the world's energy-related CO2 emissions grew 1.1% in 2023, a slight reduction from 2022. Its executive summary notes that coal, used for power generation in Asia, accounted for nearly two-thirds of the increase. The agency's press release credits renewables as blunting even worse emissions outcomes.

But in laying out serious challenges, the report fails to offer solutions and virtually ignores the fact that increased natural gas usage for power generation has made America the global leader in emissions reductions. The report over-emphasizes renewables, minimizes the role of oil and natural gas, and tracks recent observations by former White House adviser Robert McNally that the IEA has skewed its reporting to "signal a near-term peak in fossil-fuel" and to discourage investments in new oil and gas projects – goals in line with the Biden administration's pursuit of oil and gas restrictions, including a recent snap political decision to freeze pending permits for LNG export facilities at the Energy Department.

Here are several questions and concerns the IEA report raises:

**Can renewables really address growing global energy demand?**

IEA correctly notes that renewables are responsible for some mitigation of emissions due to record deployment. But emissions are up because global energy demand is increasing more rapidly than renewable deployment – even according to IEA's prior research from 2021. With the world's population slated to add an additional two billion people by 2050, aggressive renewable deployment, generously supported by government subsides worldwide, cannot meet ever-increasing demand for energy.

**Europe's "historic milestone" depends on natural gas**

IEA's new report portrays Europe as a huge success story, where the continent is experiencing a record-breaking level (34%) of its electricity generated from wind power. "For the first time," IEA reports, "wind power surpassed both natural gas and coal in electricity generation, marking an historic milestone for the energy transition in the region." Unheralded by IEA is the fact that the 31% of natural gas generation (up sharply since 2007) enables, backs up, and sustains renewable power generation. Energy reliability is one of the reasons the EU in 2022 declared natural gas was suitable for 'green' investment. Without the stability and reliability of natural gas facilities, gains from intermittent renewable sources simply are not possible, as IEA makes abundantly clear in other parts of its recent report detailing weather challenges to hydropower generation in India and China. Furthermore, by focusing on Europe, which represents less than 10% of the world's population, the report's framing ignores the realities of global energy development and demand.

**The IEA report's missing word: deindustrialization**
IEA's explanation that the EU's industrial productive capacity is in decline due to a number of economic factors barely scratches the surface. Industry's 30 percent share in the decrease of overall European emissions should never be mistaken for something positive. In the year leading up to Russia's invasion of Ukraine, European energy prices exploded 70%, as the EU hiked the price of carbon permits more than 300%, exacerbating Europe's deindustrialization. And *after* Ukraine's invasion, as the *New York Times* documented, European plants and centuries-old businesses went dark or drastically cut back on operations due to staggering energy prices. Last year, one frustrated EU politician confessed, "our industry is bleeding to death." Recent economic data shows the trend may be accelerating.

**America has shown the right path on energy**
In Europe, while emissions have declined, restrictive energy policies there are associated with a declining industrial base and economic chaos. But in contrast, the United States has experienced economic growth and relatively low and stable energy prices, all while significantly reducing emissions. This happened because every administration since the Nixon-era oil crisis, until now, pursued bipartisan policies to support oil and gas development and American energy leadership. Power sector emissions today continue to fall even as power demand increases. As America's emissions decline, the US has emerged as the world's top producer of oil and the top producer and exporter of natural gas – a seeming paradox (or miracle?) certainly worthy of further investigation by the IEA.

**Leaving us hanging on coal**
The IEA report correctly documents the rise in CO2 emissions as resulting from huge increases in coal usage in 2022 and 2023. Coal is now responsible for 65% of global emissions increases, and is the single biggest source of global emissions. The increased power sector emissions from coal usage by India, Indonesia, and especially China are completely dwarfing emissions decreases in the rest of the world. Other than offering some perfunctory statistical observations about "the changing landscape of global emissions," the IEA report fails to offer any clear suggestion how this is going to change anytime soon.

Read between the lines of the IEA's report and you'll see an agency anxious to exaggerate the value of renewable energy in the face of growing energy challenges. At the same time the agency admits we're at record high emissions, it offers no clear explanation how renewables would meaningfully offset them. News agencies, however, are very clear there is no end in sight for growing coal use. Last month, Reuters reported world coal exports and power generation hit new highs in 2023. "Worldwide electricity generation from coal hit record highs in 2023," it said, "while thermal coal exports surpassed 1 billion metric tons for the first time as coal's use in power systems continues to grow despite widespread efforts to cut back on fossil fuels." Nowhere does IEA explain how these trends would be reversed.

American oil and gas producers have offered a path forward. Because of the coal-to-gas switch, America now leads the world in emissions reductions. Approximately 60% of all emissions reductions have been from coal-to-gas-switching – more than from deployment of all renewables combined. And exported LNG helps allies meet their emissions reduction targets. Less American energy in the marketplace, especially LNG, means allies will turn to other, likely higher emitting sources of energy like coal, and world emissions will continue to grow, especially in places like Asia. This reality clearly demonstrates that the Biden administration's freeze on new LNG exports is a misguided decision.

In his *Wall Street Journal* column, McNally correctly observed the IEA, until recently, had a "gold standard" reputation for timely and impartial analysis devoid of political bias. "The world has enough climate NGOs," McNally notes, what we need as wars rage in two energy-producing regions "is an impartial and respected energy security agency." The IEA should not only make clear that oil and gas are needed for decades but should further highlight the leading and irreplaceable role that natural gas plays in global emissions reductions efforts.

*Anne Bradbury is the CEO of the American Exploration and Production Council.*

# U.S. Natural Gas Is Essential for Global Security

COMMENTARY

https://www.realclearpolitics.com/articles/2024/04/02/us_natural_gas_is_essential_for_global_security_150731.html

By Vicente Gonzalez Jr. & Martin Frost
April 02, 2024

The Biden-Harris administration's recent decision to stall the approval of additional liquefied natural gas (LNG) export facilities is a step backward from a multi-decade era of bipartisan cooperation in American energy policymaking.

Every administration since President Jimmy Carter has put a premium on American energy independence and sought ways to exert American energy leadership. One of the most consequential examples occurred during the Obama-Biden Administration, when a bipartisan effort ended the ban on exporting U.S. crude oil which led to increased domestic production and a more stable global energy market.
Under that administration's leadership, the United States ushered in a new emphasis on exporting our energy as well as overseeing what President Obama called our "natural gas boom."

We benefit from that work today, as the United States is the world leader in liquified natural gas production (LNG) and exports. This has provided economic stability and has created a new geopolitical tool.

It was quite the opposite in 1973. Leaders then had locked in policies that made the U.S. reliant on foreign energy sources – leaving America exposed to our adversaries.
OPEC nations attempted to economically blackmail the United States to change the trajectory of our foreign policy decisions by instituting an oil embargo. As a consequence, the U.S. suffered through an economic Lost Decade.

The United States should never again be left in a position to allow foreign nations to use energy as an economic weapon.

Another clear benefit to the American LNG abundance is its impact on global energy security. The clearest example of this came in the aftermath of Russia's invasion of Ukraine and the cut-off of natural gas supplies to Europe. American producers filled the void, as Europe became the main destination for U.S. LNG exports. The U.S. has now overtaken Russia as the largest natural gas supplier to Europe.

Didier Holleaux, president of the trade group EuroGas, recently said that LNG from America "has been a relief for Europe and contributed to the stabilization of gas and electricity prices in

Europe" following the post-invasion energy market chaos." Any move to restrict U.S. LNG capacity "would risk increasing and prolonging the global supply imbalance."

However, land conflicts in Gaza and Ukraine are not the only international hotspots that could dramatically alter energy markets. The Red Sea is one of the most critical shipping lanes in the world, and Houthi rebel missile attacks on vessels are impeding international trade and precipitating price hikes on shipping. Unfortunately, markets in Asia and Europe are already experiencing supply disruptions.

With economic and geopolitical tensions at fever pitch, the last thing world leaders should seek in these perilous times is to unnecessarily limit American exports of energy.
We are living in a uniquely challenging time where unwise *domestic* policies in Washington can have profound foreign geopolitical implications. DOE's decision to stall LNG exports is certainly one of them.

Just as in 1973, Americans are facing a world demanding more and more energy. Events in the Red Sea, in the broader Middle East, and in Ukraine are volatile and could easily escalate. One thing is certain: If America restricts exports, another nation – hopefully not one of our immediate adversaries – will fill the void with natural gas produced with higher emissions and costs. The best course of action for the Biden-Harris Administration is to continue approving new LNG exports to bolster a clear and growing need for global energy security. Furthermore, the Biden-Harris administration should recognize LNG as an economic asset that can undergird our economy while providing security for our allies for decades to come.
*Vicente Gonzalez Jr. is a member of the U.S. House of Representatives from Texas' 34th Congressional District.*

*Martin Frost was a member of the U.S. House of Representatives for Texas' 24th Congressional District from 1979 to 2005 and is an executive member of the board of directors for Council for Secure America.*

# Energy Royalty Payments: Directly Benefiting the Economy

The American Exploration and Production Council issued a survey of member companies that produce oil and natural gas in Ohio and Pennsylvania. The survey collected data on production, royalty payments, the number of people receiving royalties, and the estimated share of gas that is exported as LNG.

Generally, a royalty payment is a percentage share of production, or the value derived from production, paid from a producing well, paid to families, farmers, and landowners. This survey does not include the billions of dollars that companies pay in taxes, fees, and charitable contributions to state and local entities.

The eight AXPC companies that responded represent 93% of all Pennsylvania production and 68% of all Ohio production of natural gas. Unless specifically stated, all results below represent AXPC member companies only for calendar year 2023.

## Total State Production and Royalties for produced oil and natural gas

| | Total State Production | Total State Royalties |
|---|---|---|
| **PA Totals** | 7,587,508 MMcf | $ 2,308,300,000 |
| **OH Totals** | 2,264,202 MMcf | $ 1,290,200,000 |

These numbers represent the total state production and estimated total state royalty payments.

## Millions of dollars going to Ohio & Pennsylvania families due to royalties from LNG exports:

| | Total AXPC Royalties for Gas Exported as LNG |
|---|---|
| **Pennsylvania** | $ 193,200,000 |
| **Ohio** | $ 181,000,000 |

Natural gas produced by AXPC Members and then exported as LNG generated royalties to families, farmers, and landowners of more than $193 million in Pennsylvania and $181 million in Ohio in 2023.

## AXPC Royalty payments by Ohio & Pennsylvania Congressional District

| State | Congressional District | AXPC Royalty Payments | Number of Recipients of AXPC Royalty Payments |
|---|---|---|---|
| Ohio | 6 | $ 752,884,291 | 25,025 |
| Ohio | 12 | $ 121,331,098 | 1,244 |
| Pennsylvania | 9 | $ 1,147,331,337 | 37,846 |
| Pennsylvania | 12 | $ 47,420,776 | 8,201 |
| Pennsylvania | 14 | $ 833,948,786 | 131,033 |
| Pennsylvania | 15 | $ 86,214,305 | 3,903 |
| Pennsylvania | 16 | $ 3,536,014 | 1,397 |
| Pennsylvania | 17 | $ 30,929,306 | 3,992 |

Oil and gas produced by AXPC members generated over $3 billion in royalty payments distributed to over 200,000 people in Pennsylvania and Ohio in 2023.

## Summary of AXPC Royalty Payments by County

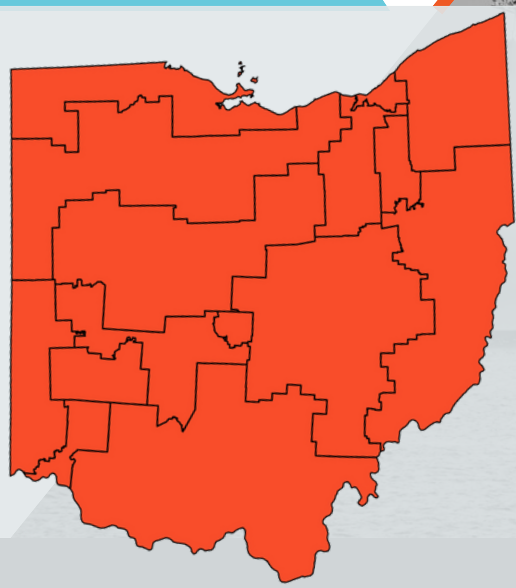
| State | County | AXPC Royalty Payments | AXPC Royalty Recipients |
|---|---|---|---|
| PA | Allegheny | $ 41,546,000 | 7,554 |
| PA | Armstrong | $ 1,367,000 | 447 |
| PA | Beaver | $ 30,930,000 | 3,992 |
| PA | Bradford | $ 308,250,000 | 18,153 |
| PA | Butler | $ 2,571,000 | 1,190 |
| PA | Cambria | $ - | - |
| PA | Cameron | $ 1,785,000 | 63 |
| PA | Centre | $ 294,000 | 6 |
| PA | Clarion | $ 3,000 | 10 |
| PA | Clearfield | $ 14,000 | 56 |
| PA | Clinton | $ 3,132,000 | 114 |
| PA | Crawford | $ 2,000 | 66 |
| PA | Elk | $ 2,204,000 | 80 |
| PA | Fayette | $ 18,277,000 | 1,689 |
| PA | Forest | $ - | - |
| PA | Greene | $ 234,852,000 | 8,978 |
| PA | Huntingdon | $ - | - |
| PA | Indiana | $ 48,000 | 66 |
| PA | Jefferson | $ 41,000 | 59 |
| PA | Lawrence | $ 47,000 | 11 |

| | | | |
|---|---|---|---|
| **PA** | Lycoming | $ 120,282,000 | 2,863 |
| **PA** | McKean | $ 270,000 | 7 |
| **PA** | Mercer | $ 918,000 | 130 |
| **PA** | Potter | $ 13,000 | 1 |
| **PA** | Somerset | $ - | - |
| **PA** | Sullivan | $ 68,393,000 | 3,861 |
| **PA** | Susquehanna | $ 579,517,000 | 9,409 |
| **PA** | Tioga | $ 77,097,000 | 3,025 |
| **PA** | Venango | $ 1,000 | 35 |
| **PA** | Washington | $ 580,773,000 | 120,300 |
| **PA** | Westmoreland | $ 5,875,000 | 647 |
| **PA** | Wyoming | $ 70,892,000 | 3,560 |
| **PA TOTALS** | | $ 2,149,394,000 | 186,372 |
| **OH** | ASHLAND | $ - | - |
| **OH** | ASHTABULA | $ - | - |
| **OH** | ATHENS | $ - | - |
| **OH** | AUGLAIZE | $ - | - |
| **OH** | BELMONT | $ 177,035,000 | 10,105 |
| **OH** | CARROLL | $ 111,530,000 | 3,865 |
| **OH** | COLUMBIANA | $ 21,799,000 | 961 |
| **OH** | COSHOCTON | $ - | - |
| **OH** | CRAWFORD | $ - | - |
| **OH** | CUYAHOGA | $ - | - |
| **OH** | DARKE | $ - | - |
| **OH** | DELAWARE | $ - | - |
| **OH** | ERIE | $ - | - |
| **OH** | FAIRFIELD | $ - | - |
| **OH** | FRANKLIN | $ - | - |
| **OH** | GALLIA | $ - | - |
| **OH** | GEAUGA | $ - | - |
| **OH** | GUERNSEY | $ 121,332,000 | 1,244 |
| **OH** | HARRISON | $ 185,395,000 | 4,057 |
| **OH** | HOCKING | $ - | - |
| **OH** | HOLMES | $ - | - |
| **OH** | HURON | $ - | - |
| **OH** | JACKSON | $ - | - |
| **OH** | JEFFERSON | $ 168,661,000 | 5,767 |
| **OH** | KNOX | $ - | - |
| **OH** | LAKE | $ - | - |
| **OH** | LAWRENCE | $ - | - |
| **OH** | LICKING | $ - | - |
| **OH** | LOGAN | $ - | - |
| **OH** | LORAIN | $ - | - |

| | | | |
|---|---|---|---|
| **OH** | MAHONING | $ - | - |
| **OH** | MARION | $ - | - |
| **OH** | MEDINA | $ - | - |
| **OH** | MEIGS | $ - | - |
| **OH** | MERCER | $ - | - |
| **OH** | MONROE | $ 85,451,000 | 58 |
| **OH** | MORGAN | $ - | - |
| **OH** | MORROW | $ - | - |
| **OH** | MUSKINGUM | $ - | - |
| **OH** | NOBLE | $ 2,470,000 | 152 |
| **OH** | PERRY | $ - | - |
| **OH** | PICKAWAY | $ - | - |
| **OH** | PIKE | $ - | - |
| **OH** | PORTAGE | $ - | - |
| **OH** | RICHLAND | $ - | - |
| **OH** | ROSS | $ - | - |
| **OH** | SANDUSKY | $ - | - |
| **OH** | SENECA | $ - | - |
| **OH** | SHELBY | $ - | - |
| **OH** | STARK | $ 129,000 | 20 |
| **OH** | SUMMIT | $ - | - |
| **OH** | TRUMBULL | $ - | - |
| **OH** | TUSCARAWAS | $ 149,000 | 40 |
| **OH** | VINTON | $ - | - |
| **OH** | WASHINGTON | $ 268,000 | - |
| **OH** | WAYNE | $ - | - |
| **OH** | WOOD | $ - | - |
| **OH** | WYANDOT | $ - | - |
| **OH TOTALS** | | $ 874,219,000 | 26,269 |

# Energy Royalty Payments: Strengthening Ohio's Economy


## 2023



## Royalties Benefit Ohio Families, Farmers, & Landowners

In 2023, Ohio companies produced nearly 2.3 trillion cubic feet of natural gas. Oil and gas production generated nearly **$1.3 billion** in royalty payments distributed in Ohio in 2023.

## Ohio and LNG Exports

Natural gas produced by AXPC members and then exported as LNG generated royalties of more than **$181 million** in Ohio in 2023.

Oil and gas development coupled with LNG exports is critical to the Buckeye State.

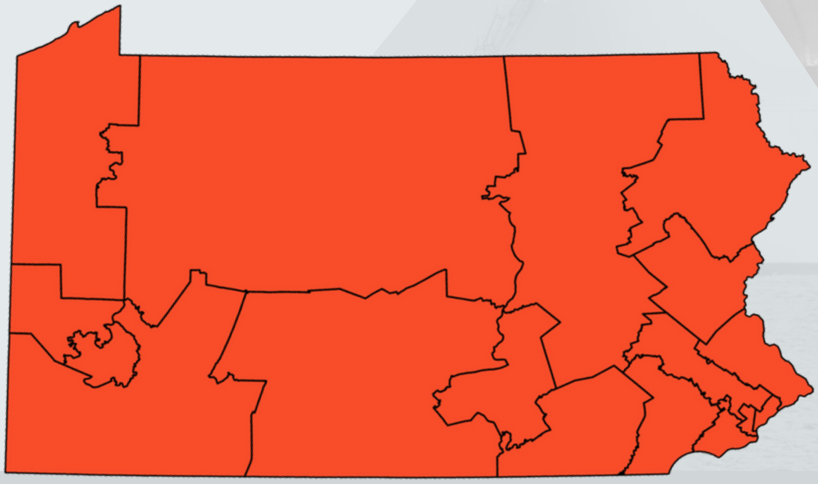
## American Exploration & Production Council

The American Exploration & Production Council is the national trade association that represents the leading independent oil and natural gas exploration and production companies in the United States. Our member companies represent 50 percent of the nation's oil production and more than 50 percent of its natural gas production.

# Energy Royalty Payments: Strengthening Pennsylvania's Economy

AMERICAN EXPLORATION & PRODUCTION COUNCIL

## 2023



## Royalties Benefit Pennsylvania Families, Farmers, & Landowners

In 2023, AXPC companies produced 7.1 trillion cubic feet of natural gas, which is nearly 95 percent of all Pennsylvania natural gas production. Oil and gas produced by AXPC members generated over $2.1 billion in royalty payments distributed to over 186,000 recipients in Pennsylvania in 2023.

## Pennsylvania and LNG Exports

Natural gas produced by AXPC members and then exported as LNG generated royalties of more than $193 million in Pennsylvania in 2023.

Oil and gas development coupled with LNG exports is critical to the Keystone State.

## American Exploration & Production Council

The American Exploration & Production Council is the national trade association that represents the leading independent oil and natural gas exploration and production companies in the United States. Our member companies represent 50 percent of the nation's oil production and more than 50 percent of its natural gas production.

# 2024 PAC Board Approved PAC Budget

| Last Name | First Name | State | Party | Chamber | 2024 Approved |
|---|---|---|---|---|---|
| Peltola | Mary | AK | D | House | $5,000.00 |
| Westerman | Bruce | AR | R | House | $5,000.00 |
| Correa | Lou | CA | D | House | $5,000.00 |
| Costa | Jim | CA | D | House | $4,000.00 |
| Hickenlooper | Jon | CO | D | Senate | $2,000.00 |
| Carter | Buddy | GA | R | House | $2,500.00 |
| Simpson | Mike | ID | R | House | $2,500.00 |
| Crapo | Mike | ID | R | Senate | $2,500.00 |
| Estes | Ron | KS | R | House | $1,000.00 |
| Barr | Andy | KY | R | House | $2,000.00 |
| Guthrie | Brett | KY | R | House | $2,500.00 |
| Carter | Troy | LA | D | House | $1,000.00 |
| Graves | Garret | LA | R | House | $2,000.00 |
| Johnson | Mike | LA | R | House | $2,500.00 |
| Scalise | Steve | LA | R | House | $2,500.00 |
| Golden | Jared | ME | D | House | $2,000.00 |
| Emmer | Tom | MN | R | House | $3,000.00 |
| Stauber | Pete | MN | R | House | $3,000.00 |
| Smith | Jason | MO | R | House | $5,000.00 |
| Zinke | Ryan | MT | R | House | $2,000.00 |
| Sheehy | Tim | MT | R | Senate | $5,000.00 |
| Hudson | Richard | NC | R | House | $3,000.00 |
| Gottheimer | Josh | NJ | D | House | $2,000.00 |
| Herrell | Yvette | NM | R | House | $2,000.00 |
| Stefanik | Elise | NY | R | House | $2,000.00 |
| Balderson | Troy | OH | R | House | $5,000.00 |
| Carey | Mike | OH | R | House | $5,000.00 |
| Miller | Max | OH | R | House | $2,000.00 |
| Moreno | Bernie | OH | R | Senate | $5,000.00 |
| Bice | Stephanie | OK | R | House | $3,000.00 |
| Hern | Kevin | OK | R | House | $2,000.00 |
| Lucas | Frank | OK | R | House | $2,000.00 |
| Joyce | John | PA | R | House | $1,000.00 |
| Meuser | Dan | PA | R | House | $2,000.00 |
| Reschenthaler | Guy | PA | R | House | $3,000.00 |
| McCormick | David | PA | R | Senate | $10,000.00 |
| Scott | Tim | SC | R | Senate | $2,500.00 |
| Thune | John | SD | R | Senate | $2,500.00 |
| Fletcher | Lizzie | TX | D | House | $5,000.00 |
| Garcia | Sylvia | TX | D | House | $5,000.00 |
| Gonzalez | Vicente | TX | D | House | $5,000.00 |
| Veasey | Marc | TX | D | House | $5,000.00 |
| Arrington | Jodey | TX | R | House | $3,000.00 |
| Crenshaw | Dan | TX | R | House | $2,000.00 |
| Gonzales | Tony | TX | R | House | $5,000.00 |
| Hunt | Wesley | TX | R | House | $2,000.00 |

# 2024 PAC Board Approved PAC Budget

| | | | | | |
|---|---|---|---|---|---|
| Pfluger | August | TX | R | House | $5,000.00 |
| Weber | Randy | TX | R | House | $2,000.00 |
| Curtis | John | UT | R | House | $2,500.00 |
| Glueskamp Perez | Marie | WA | D | House | $3,000.00 |
| Newhouse | Dan | WA | R | House | $3,000.00 |
| Miller | Carol | WV | R | House | $3,000.00 |
| Placeholder | | WV | R | Senate | $2,500.00 |
| Hageman | Harriet | WY | R | House | $2,000.00 |
| Barrasso | John | WY | R | Senate | $5,000.00 |
| Placeholder | | | | House | $10,000.00 |
| | | | | | **$186,000** |

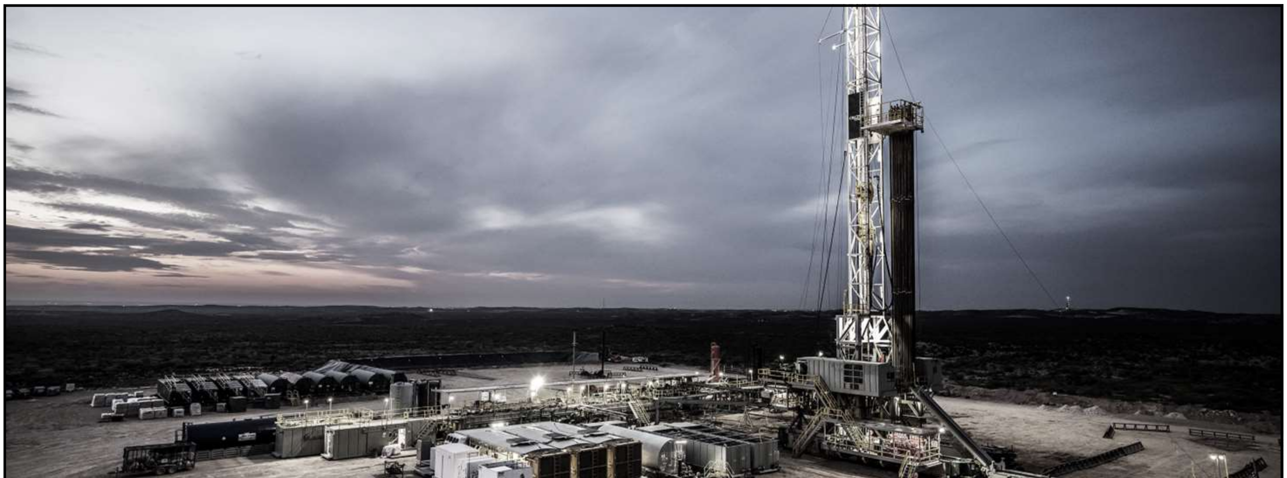
| PACS | 2024 Approved |
|---|---|
| House Conservative Fund | $5,000.00 |
| Across the Aisle PAC | $5,000.00 |
| Blue Dog | $5,000.00 |
| | **$15,000.00** |

| Overall Totals: | 2024 Approved |
|---|---|
| | **$201,000.00** |

| Placeholder Breakdowns | |
|---|---|
| House | $10,000 |
| | $10,000 |

| Individual Candidates by Party | |
|---|---|
| Republican (75%) | $132,000 |
| Democrat (25%) | $44,000 |
| | $176,000 |

| Per Chamber | |
|---|---|
| House | 80% |
| Senate | 20% |



# AXPC EHS Policy & Reg Affairs Committee Board Update

AMERICAN EXPLORATION & PRODUCTION COUNCIL

**April 2024**

## 2024 EHS Policy & Regulatory Affairs (EHSPRA)
## Committee Structure

### EHSPRA Full Committee Chairs

Kerry Harpole MRO, Brian Woodard MOC

**Water & Waste Subcommittee**
Wendy Kirchoff
Gretchen Kohler AR
Brian Bohn, APA NEW

**Air & Climate Subcommittee**
Rebecca Denney
Jena Resnick AR
Mike Smith, DVN NEW

**Health & Safety Subcommittee**
Rebecca Denney
Chuck Burwick SWN
Kyle Kline SCRX

**Operational Integrity, Fed Lands, & Wildlife (Joint) Subcommittees**
Wendy Kirchoff
Jasmine Allison, Purewest NEW
Randol Tellkamp, MRO NEW
Mike Hauser, COP (Wildlife) NEW

| Subcommittee | Primary issue areas of responsibility |
|---|---|
| Water & Waste | Water / waste management, sourcing, disposal, NORM/TENORM, WOTUS, CCUS, PFAS |
| Air & Climate | Air / emissions policy including methane, LDAR, flaring, ozone, climate change regulations |
| Health & Safety | Occupational health and safety, process safety, HSE annual benchmarking survey |
| Operational Integrity and Federal Lands | Federal lands leasing and permitting, hydraulic fracturing, NEPA |
| Wildlife | Wildlife / habitat management, threatened and endangered species, mitigation |

## EHS Policy & Reg Affairs Committee Activities
### 1Q2024 Highlights

**Methane and Emissions**
- Developed and Filed AXPC comments on Waste Emissions Rule (WEC) Analysis of Final NSPS OOOOb/c; AXPC in person workshop and EHSR manager level summaries of final rules
- Collaborating with API on potential reconsideration efforts and associated judicial filings.
- Continued multi-level agency engagement on emissions and methane related rulemakings (i.e. Subpart W, NSPS OOOObc, WEC, etc.)
- Participated with API on flare data to support reconsideration concerns shared with EPA

**DOI and Federal Lands**
- BLM issued Final Waste Prevention Rule – currently under review by committees and awaiting final publication
- AXPC OIRA meeting on BLM Conservation and Landscape Health Rule to inform interagency review stage before final rule release
- AXPC participated in Chamber-led OIRA meeting on CEQ NEPA Phase 2 proposed rule
- Continued support for AXPC advocacy on legislative permitting reform initiatives and review of recent proposals
- Developing updated recommendations for NEPA judicial review legislative language and associated permit reform priorities

**Health & Safety**
- Prep for this year's HSE Survey of 2023 performance
- Continued member sharing discussions – safety share calendar
- In development of potential safety dashboard to allow more frequent member benchmarking of key safety indicators, especially fatalities and SIF events

**Water & Waste**
- Continued participation in Waters Advocacy Coalition on the implementation of the WOTUS 'navigable water's' definition finalized in response to Sackett decision
- Monitoring New Mexico petition to ban PFAS in upstream and related research
- Coordination with API on FracFocus 4.0 release and ongoing efforts related to PFAS

**Wildlife**
- Reviewing Sage Grouse draft Resource Management Plan amendments and considering for public comment
- Group discussions on identifying priority species for AXPC member companies and potential associated engagement with FWS

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## Spring 2024
### Board Update

# *Air & Climate Subcommittee Report*

Jena Resnick / Antero Resources *Co-Chair*

Mike Smith/ Devon Energy *Co-Chair* NEW

# Air and Climate Subcommittee

## 2024 Workplan

### STRATEGY

**Constructive engagement**

**Building Relationships**

**Focus on practical solutions**

**Coordination with peer trades on shared priorities**


### KEY FOCUS AREAS

- OOOObc implementation / reconsideration
- Waste Emission Charge (WEC)
- GHG Subpart W "Empirical Data" Revision
- Alternate Methane Detection and Quantification Technologies
- *"Year of Measurement"*


### KEY DELIVERABLES

- Engage EPA on Final OOOObc:
  - Federal implementation issues
  - Reconsideration petitions
  - Potential legal challenges
- Comments and Agency engagement on:
  - WEC Rulemaking
  - Sub W Revisions Rulemaking
- Support for political/legislative advocacy efforts on Methane
- Monitoring of satellites, MMRV initiatives and related efforts
- Monitor third-party applications for the Super Emitter Program


### OTHER ISSUES

- Other GHGRP Revisions (Subpart A/B)
- Air Quality & Ozone Reconsideration
- Administration actions on Methane and Climate

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# Air & Climate Subcommittee – Updates

## NSPS OOOOb / EG OOOOc

Final Rule Published – March 8, 2024

Rule takes effect in 60 days - May 7, 2024

Challenges must also be filed by May 7, 2024

| Wins | Losses | Jury is still out? |
|---|---|---|
| Applicability Date | No changes in LPEL | Alignment between other rules |
| Liquids Unloading | Flare Monitoring & Demonstration | Associated gas provisions |
| Implementation Time for Pneumatics | Pneumatic Control Options | SERP Program |
| Tiered LDAR (AVO for small sites) | Storage Vessels, Covers and CVS | Alternative Tech |
| Clarification around compressors | Modification Triggers | Temporary Equipment |

### High Priority Issues:

- **Storage Vessels**
- **Flares and Control Devices**
- **Covers / Closed Vent Systems (CVS)**
- **Definition of modification**
- **Temporary Equipment**
- **Harmony between rules**

### Outreach and Follow-up Efforts

- Partnered with API
- Continued EPA engagement
- Developing Petitions for Reconsideration and Judicial Review
- Additional data to support our recommendations

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## Air & Climate Subcommittee – Updates

### GHGRP Subpart W Revisions

**EPA Issued Proposed Rule – August 2023**

- IRA statute directed EPA to revise Subpart W to use empirical data in order "to accurately reflect the total methane emissions"
- EPA proposed that revisions would take effect RY2025
- AXPC submitted comments - October 2023
- AXPC signed joint trade comments led by API – October 2023

**Areas of concern include:**

- Methane slip methodologies and limitations
- Flares (DREs, other demonstration opportunities, Flow rates)
- Default durations (large release events, thief hatches)

.

**Outreach and Follow-up Efforts:**

- Pre-rulemaking engagement on IRA directed revisions
- Meetings with EPA technical staff – Sept. 2023 and Feb. 2024, planned for April 2024

**Status of Rulemaking and Next Steps:**

- GHGRP Subpart W – Spring 2024 (August 2024 Deadline from IRA)

**Other outstanding rulemaking:**

**GHGRP Revisions (Subparts A/B):**

✓ AXPC filed formal comments on 7/21

✓ Final rule expected- Spring 2024

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## Air & Climate Subcommittee – Updates

### MERP Implementation – Waste Emission Charge

**Proposed rule published on 1/26/2024.**

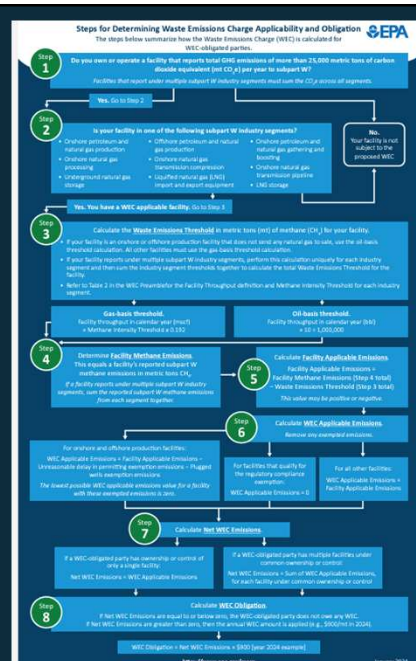
- IRA established charge for methane emitted from applicable facilities that exceed statutorily specified thresholds
  - $900 per metric ton for emissions reported in 2024, paid in 2025
  - $1,200 for 2025 emissions, paid in 2026
  - $1,500 for emissions years 2026-on.
- Included Exemptions
  - Compliance with Nov. 2022 NSPS OOOOb/c proposal
  - Delayed infrastructure
  - Plugged Wells

**Areas of concern include:**

- Compliance exemption effectively non-existent
- Inequity between production types – prefer energy allocation
- Timelines for reporting and paying fees

**Status:**

- Extension granted for comment period. Comments due: 3/26/2024

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## Methane and Emissions Related Rulemakings
### Compliance Timeline

| | | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 |
|---|---|---|---|---|---|---|---|
| Methane Rules | New Sources | **Final Rule Published** *March 8th* | | | | | |
| | Existing Sources | **Rule Effective** *May, 7th (compliance for new or modified sources as of Dec. 6, 2022)* | | **State plans due < May 7th** (24 mo. after rule effective date) | | | **Compliance with state plans** (<36 mo. after plans submittal) |
| Revised Subpart W | | **Final Rule** (Aug 2024 statutory deadline) | **Effective date** (proposed) | **Report 2025 emissions under revised Subpart W** (proposed) | **Report 2026 emissions under revised Subpart W** (proposed) | **Report 2027 emissions under revised Subpart W** (proposed) | **Report 2028 emissions under revised Subpart W** (proposed) |
| MERP Waste Emissions Charge | | **Final Rule** (estimated) | **WEC fee due on 2024 reported emissions over threshold (via old Subpart W) - $900 per ton** (proposed) | **WEC fee due on 2025 reported emissions over threshold - $1200 per ton over** (proposed) | **WEC fee due on 2026 reported emissions over threshold - $1500 per ton** (proposed) | **WEC fee due on 2027 reported emissions over threshold - $1500 per ton** (proposed) | **WEC fee due on 2027 reported emissions over threshold - $1500 per ton** (proposed) |
| SEC Climate Disclosure | | **Final Rule** Effective ~June 2024 | **All disclosures for large accelerated filers except material spend and impacts and GHG** | **All disclosures for large accelerated filers incl. material spend and impacts, except GHGs** | **All disclosures for large accelerated filers including Scope 1 & 2 GHG emissions** | **All disclosures for large accelerated filers including Scope 1 & 2 GHG emissions** | **All disclosures for large accelerated filers including Scope 1 & 2 GHG emissions w/ Limited assurance*** |

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*Reasonable assurance of GHG disclosures required effective in 2033

# Water & Waste Subcommittee Report
## Spring 2024 - Board Update

Gretchen Kohler / Antero Resources *Co-Chair*
Brian Bohm / Apache Corporation Co-Chair

# Water & Waste Subcommittee
## 2024 Workplan




### STRATEGY
**Leverage relationships and industry coalitions and others on water issues and concerns**

**Continue collaboration with state regulators organizations on federal water issues**

### KEY FOCUS AREAS
- Water & Waste Management
- Water Sourcing & Disposal
- WOTUS Implementation and Lawsuits

### KEY DELIVERABLES
- Nationwide Permit Reconsiderations
- Waters Advocacy Coalition participation on Waters of the U.S. (WOTUS)
- Evolving water and spill indicators and disclosure trends
- Continued engagement with the Ground Water Protection Council (GWPC)
- Close monitoring of PFAS Regulations and Studies, Class VI and CCUS

### OTHER ISSUES
- Beneficial Reuse initiatives
- NORM / TENORM
- Hazardous Substances Worst Case Discharge Rule

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# Water & Waste Subcommittee - Priority Issues Update
## Revised Definition of Waters of the US (WOTUS)

### Post-Sackett Landscape
- A Revised definition of WOTUS was issued on September 8, 2023, following the SCOTUS *Sackett* case decision, without opportunity for public comment.
- Litigation continues with amended complaints in two separate cases over 26 states, due to the lack of clarity on the 2023 Rule's interpretation of "relatively permanent" among other issues outside of the court decision.
- The original cases resulted in injunctive relief for those States involved in the lawsuits; some states are relying on the pre-*Rapanos* 2015 rule and others on the Biden Rule.
- It is unclear when the amended cases will be heard.

### Implementation
- EPA and Army Corps have held "listening sessions" for various interest groups (e.g. Agriculture, State/Tribal gov'ts etc.)
- Several trade associations are filing FOIA Requests to obtain an implementation guidance document that has been referenced by the Agencies, but not made public.
- States are starting to look at their role to regulate ephemeral or intermittent streams to protect "Waters of the State"
- On March 22, 2024, the Army Corps announced issued a Memorandum of Understanding (MOU) directing the agency to continue to use certain existing statutory and regulatory authority to ensure protection of wetlands and waterways even if they fall outside the new geographical scope of the CWA per the *Sackett* decision.
- The MOU will likely only continue the long-standing legal/political tug-of-war on the jurisdictional limits and meaning of the "waters of the United States."

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## Water & Waste Subcommittee Updates
### Emerging Issues

**Carbon Capture and Sequestration (CCS)**

- Outreach to better understand the current federal policy issues related to CCS.
- Federal initiatives support the use of CCS but does not provide a clear and concise regulatory framework.
- Areas of focus for emerging regulations include:
  - Ownership (CO2, pore space, mineral rights, unitization, etc.)
  - Transportation (CO2 pipelines, rail, etc.)
  - Storage (geologic reservoir characteristics, etc.)
  - Liability and Financial Responsibility
- Monitor state primacy applications and the build out of state regulatory programs

**Emerging Contaminants:**

PFAS/PFOA/PFOS/GenX contaminants

- EPA proposed rules to amend the definition of Hazardous Waste under regulations to include certain PFAS/Emerging Contaminants
- Emerging state level efforts to gather data and require self-reporting of use, including through a "FracFocus" process

**Watch List:**

- Clean Water Act related permit reform efforts
- Nationwide permit reconsiderations
- FracFocus 4.0
- Beneficial Reuse outside the industry



# Operational Integrity, Federal Lands, and Wildlife Subcommittee Report

## Spring 2024 – Board Update

*Jasmine Allison / Purewest* NEW

*Randol Tellkamp / Marathon Oil* NEW

*Mike Hauser / Conoco Phillips (Wildlife Lead)* NEW

# Operational Integrity, Federal Lands, & Wildlife Subcommittee

## 2024 Workplan

### STRATEGY

**Constructive engagement**

**Messaging the importance of federal lands development**

**Support new champions of federal lands development**

**Highlight industry conservation efforts**

01

### KEY FOCUS AREAS

- Federal Leasing and Reg Program
- Permit Reform
- ESA, MBTA, and other Wildlife Regulations
- Push for transparency and timeliness

02

### KEY DELIVERABLES

- Implementation:
  - BLM Conservation & Landscape Rule
  - BLM Waste Prevention Rulemaking
  - Bonding/Fiscal Rulemaking
  - NEPA Rulemakings
- Support for Legislative Advocacy on permit reform and related issues
- Site Security & Measurement Rulemaking & Commingling

03

### OTHER ISSUES

- ESA species listings
- Opportunities to partner with states and/or tribal operators

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# Operational Integrity, Federal Lands, & Wildlife Subcommittee

## DOI Priorities - Federal Lands and Wildlife Regulatory Programs

**DOI Priorities**

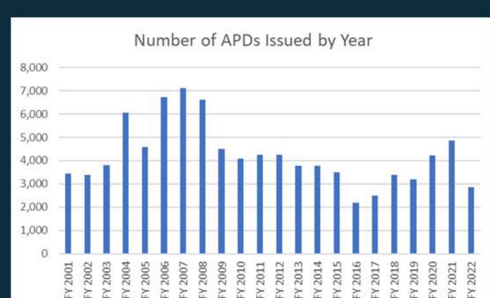
- RMPs & Land Use, Methane, Waste Prevention
- Fiscal Leasing Terms, Renewable Development

**Anticipated proposals**

- Site Security & Measurement Onshore Orders
- RMPs and RMP Amendments

**Considering engagement opportunities:**

- Commingling
- Waste Minimization Rule Implementation and Guidance Development
- Permitting Reform

## Operational Integrity, Federal Lands, & Wildlife Subcommittee

### Permitting Reform & NEPA

**REGULATORY** **POLITICAL** **LEGAL**

- **Bipartisan discussions reported to have started up again for Congressional Permit Reform**
- **Comprehensive solution still evasive - the two sides still remain far apart on priorities**
- **Slim, though unlikely, chance for a small focused effort this year**

FERC GHG Guidance

NEPA Phase 2

Climate

Judicial Reform

NEPA GHG Guidance

Clean Water Act State Certifications

Cost Allocation

Transmission Siting

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## Operational Integrity, Federal Lands, & Wildlife Subcommittee

### BLM Rulemakings

**Conservation & Land Health - NPRM**

- Rule undergoing final interagency review, last procedural step before finalizing rule
- Proposal would create conservation leases a "use" vs. mineral leases in BLMs land management framework
- Expands BLM discretion to effectively set aside lands or areas of concern from other use
- After final rule, BLM plans to revise 98 Resource Management Plans to confirm to new regime

**Fluid Mineral Leases & Lease Processing- NPRM**

- Rule also in final interagency review
- Implementation of IRA/Surface Use Conditions
- Increase requirements for bonding
- Stipulations & Modifications/Changes to APD duration

**Site Security & Measurement – Rule Proposal**

- Update regulations governing Commingling, Gas Sampling, Metering & Measurement
- Proposed rule still outstanding, likely delayed as a lesser administration priority

| FY 2024 Application for Permit to Drill Status Report: 10/1/2023 to 10/31/2023 | | | | | Approved Permits Available for Drilling as of 12/7/2023 (E) |
|---|---|---|---|---|---|
| State Office | APDs Received (A) | APDs Pending (B) | APDs Processed (C) | APDs Approved (D) | |
| Alaska | 1 | 1 | 2 | 2 | 3 |
| California | 1 | 115 | 0 | 0 | 148 |
| Colorado | 26 | 124 | 25 | 25 | 198 |
| Eastern States | 0 | 17 | 2 | 2 | 27 |
| Montana | 45 | 117 | 25 | 25 | 240 |
| Nevada | 0 | 9 | 0 | 0 | 2 |
| New Mexico | 248 | 4,106 | 84 | 74 | 4,243 |
| Utah | 59 | 274 | 25 | 25 | 500 |
| Wyoming | 72 | 603 | 44 | 43 | 1,886 |
| **Total** | **452** | **5,366** | **207** | **196** | **7,247** |
| **Federal Well Total** | **423** | **5,143** | **180** | **169** | **7,009** |
| **Indian Wells Total** | **29** | **223** | **27** | **27** | **238** |
| **Fiscal Year Totals (F)** | **452** | **5,366** | **207** | **196** | **7,247** |

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## BLM Rulemakings Estimated Effective Dates

### Timeline

| | 2023 | 2024 | 2025 | 2026 | 2027 |
|---|---|---|---|---|---|
| **Fluid Mineral Leasing Rule** | **Proposed Rule** July 2023<br><br>Increased min royalties already being included in new lease sale terms | **Final Rule** Spring 2024 (estimated) | Individual Bonds must meet new minimums w/in 1 year | Existing unit operator nationwide bonds must be converted to statewide bonds w/in 2 years<br><br>Existing statewide bonds must meet new minimums w/in 2 years | Existing nationwide bonds must be converted to statewide bonds w/in 3 years |
| **Waste Prevention and Minimization** | **Comments due on proposal** January 2023 | **Final Rule** March 2024<br><br>w/in 6 months of final:<br>- New required meters must be installed<br>- Existing royalty free flaring approvals sunset<br>- LDAR programs must b submitted to BLM | Lower 'royalty free' associated gas flaring thresholds kick in if due to midstream constraints<br><br>HP Flare meters must be installed for oil wells with gas volumes btwn 6,000–30,000 Mcf/month | *Even lower* 'royalty free' associated gas flaring thresholds kick in if due to midstream constraints<br><br>HP Flare meters must be installed for oil wells with gas volumes btwn 1,050– 6,000 Mcf/month.<br><br>Statewide LDAR plans due | *Final lowering* of 'royalty free' associated gas flaring thresholds kick in if due to midstream constraints |
| **Conservation and Landscape Health** | **Proposed Rule** April 2023 | **Final Rule** Spring 2024 (estimated) | | | |

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*per metric tons of methane emissions reported under Subpart W that exceed the IRA applicable annual emissions threshold

## Operational Integrity, Federal Lands, & Wildlife Subcommittee

### Species Listings and Regulatory Actions

**Greater Sage Grouse**

- BLM issued Draft Resource Management Plan (RMP) Amendment & Environmental Impact Statement (EIS)
- Comments due **June 13th, 2024**
- Proposes to update RMPs adopted in 2015 and 2019
- Joint trade issue ID workshop planned for **April 17th**
- AXPC considering comment on precedent setting issues:
  - No Surface Occupancy Restriction
  - Required Compensatory Mitigation
- May seek permanent withdrawals in priority habitat
- Likely Areas of Critical Environmental Concern (ACEC)

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## Operational Integrity, Federal Lands, & Wildlife Subcommittee
### Species Listings and Regulatory Actions

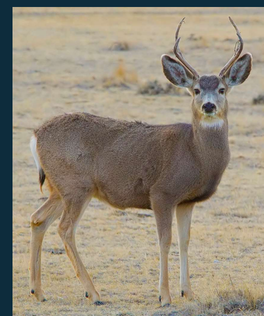
**Species Listings Activities:**

- **Monarch Butterfly** – deadline of September 2024 for listing decision
- **Tricolored Bat** - final listing decision expected. Like other recently listed bats, it is expected that tools will be made available for project developers
- **Dunes Sagebrush Lizard** – proposed endangered in July 2023; FWS conducting 12 mos. species status review, after which a final listing determination can be made
- **Pygmy Rabbit** - proposed endangered in July 2023; FWS currently conducting 12 months species status review, after with a final listing determination can be made
- **Big Game Corridors** – Potential restrictions for areas with big game (e.g. mule deer)

**Migratory Birds Incidental Take Permit** - FWS announced in Dec 2023 they were pulling back on this rulemaking

**ESA Regulations** - Final rules published March 27th

- Critical habitat designation and definition of "habitat"
- Blanket 4(d) rule for newly listed threatened species
- Section 7 consultations





## Land Use Advocacy:
### What's the Right Response to Proposed Land Use Restrictions?

**Overall Themes**

- Restrict Land Use in the name of conservation
- Creating undisturbed, in-tact landscapes
- Studies focusing on impacts oil and gas
- Keeping development from former WOTUS
- Increasing arguments that setbacks or use restrictions work better than GHG regulations
- "Reasonable setbacks" from schools etc.
- Responding to wildlife concerns

**Potential Responses**

- Talkers to address to the push for intact landscapes – this impacts more than the oil and gas industry
- Refresh well integrity and ground water protection messaging and fact sheets
- Look cumulatively at setbacks, buffers, conservation leases, and withdrawals in each state
- Increase understanding that longer laterals are not always reasonable / possible
- Research actual wildlife impacts and provide data

EHS POLICY & REG AFFAIRS
FALL TRIANNUAL 2023

# Health & Safety Subcommittee Report

## Spring 2024 – Board Update


Chuck Burwick / Southwestern Energy *Co-Chair*

Kyle Kline/ Seneca Resources *Co-Chair*


## Health & Safety Subcommittee

### 2024 Workplan

**STRATEGY**

**Provide forum for sharing lessons learned, and monitoring trends**

**Support continuous improvement in H&S performance**

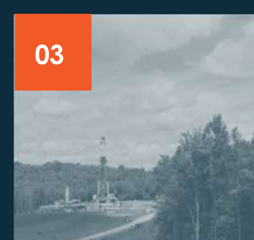
**Monitor and engage in key rule developments as warranted**


**KEY FOCUS AREAS**

- Knowledge sharing remains priority focus
- Serious Incidents and Fatalities (SIF)
- Health & Safety Implications of Environmental Rules
- OSHA Rulemaking and Standard


**KEY DELIVERABLES**

- 2023 HSE Performance Survey
- Potential safety dashboard for tracking fatalities and/or SIFs
- Build support for improving manhours estimation approach
- OSHA PSM Enforcement Stay and/or Rulemaking




**OTHER ISSUES**

- Coordination with Onshore Safety Alliance

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## Health & Safety Subcommittee
### Knowledge Sharing

- Subcommittee platform for discussion to strengthen future H&S performance
- Volunteer Safety Share at Monthly Meetings
  - *Need Volunteers!*
- Recent H&S group knowledge sharing discussions around:
  - YTD SIF Events
  - Well-fire & Fatality Incident Review
  - ISNWorld Contractor Management Trends


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## AXPC HSE Survey of 2023 Performance
### Prep for this year's effort

**VALUE**

Valuable content

Support continued improvements

Enhance comparisons where possible

**PARTICIPATION**

100% AXPC Member company participation in some part of the survey

Grow participating in alternate manhours calculation

**ON TIME**

Provide timely industry comparisons

Meet or beat target date of June 14 for final report

Report to be presented to BOD at August meeting

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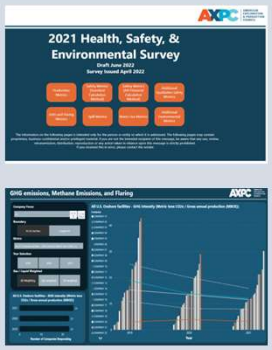
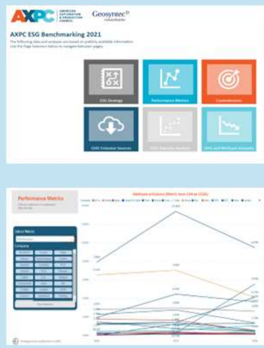
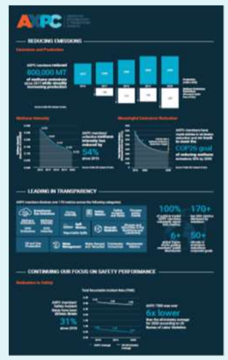
## Keeping It All Straight

| HSE Survey | ESG Benchmark | ESG Infographic | ESG Framework / Template |
|---|---|---|---|
|  |  |  |  |
| AXPC Assembled Report<br>Confidential Data Submissions<br>Internal Use Only | AXPC Assembled Report<br>Company Public Disclosures<br>Internal Use Only | AXPC Assembled Report<br>Aggregate Public Disclosures<br>External Use | Company Assembled / Published<br>Internal Company Data<br>External Use |

## Survey Timeline

### 2023 HSE Performance Survey

| Date | Status | Activity |
|---|---|---|
| March 6th | ☑ | Steering Group Prep Session |
| March 16th | ☑ | Template Revisions |
| April 1st | ☐ | Survey Initiation to designated Member Company Points of Contact (POC) |
| April 30th | ☐ | Company Responses Due |
| May 31st | ☐ | POC Review for QA / QC |
| June 14th | ☐ | Distribution of Dashboard and Data to POCs |
| August 8-9 | ☐ | BOD Presentation |

### Key Dates

**April 30th, 2024**

- Completed company templates are DUE on April 30th.
- If no survey responses are received by April 30, request is elevated to the company Coordinating Committee as a reminder, after which companies will have one more week to submit or opportunity will be closed

**May 31st, 2024**

- POCs receive an advance copy of the dashboard and report for the opportunity to QAQC their company's data.
- POCs have 2 weeks to review and issue edits
- If no response is received, the dashboard is considered final.

## Health & Safety Subcommittee
### OSHA Rulemakings

- **Heat Standard**
  - OSHA Fact Sheet issued August 2023
  - Next step – small business consultation efforts (SBREFA)

- **Process Safety Management (PSM)**
  - May apply to certain upstream operations but OSHA has in a place an enforcement stay until they can conduct necessary missing impact analysis OSHA near term focus on PSM enforcement discretion
    - Need to conduct impact analysis for production segment of NAICS codes
    - Exemptions should still be available (e.g. unmanned facility exemption)
    - Has not been a priority for this administration

AXPC

# ESG Committee

## Spring 2024 Board Update

Brooke Baum / Devon Energy *Co-Chair*

Maggie Young / Chesapeake Energy *Co-Chair* NEW

## ESG Committee Updates and Strategy

### ACCOMPLISHMENTS

- Updated AXPC ESG Framework released in January
- 2023 ESG Benchmark – completed early
- ESG Data Governance workshop
- SEC Climate Rule Workshop

### ENGAGEMENTS

- Atlantic Council
- COP28 Leadership
- Drivepath Advisors
- Rich Feuer Anderson

### LOOKING AHEAD

- SEC Climate Rule
  - Analysis & Guidance Document Development
- MMRV
  - Education and advocacy

AXPC

BRADFUTE
CONSULTING & LEGAL SERVICES

## BLM Waste Prevention, Production Subject to Royalties, and Resource Conservation Rule

As we are all aware, the Bureau of Land Management ("BLM") previously issued regulations to regulate venting and flaring from production on public and Indian lands in 2016 and 2018, which resulted in lengthy litigation and both rulemakings ultimately being struck down. In 2022, the BLM proposed a new Waste Prevention Rule and on March 27, 2023, BLM released a prepublication of its final rule Waste Prevention Rule (the "final rule"). The final rule goes into effect 60 days after publication in the Federal Register. *See* Waste Prevention Rule | Bureau of Land Management (blm.gov). However, some provisions contained within the rule have phase-in dates that may vary from 6 – 18 months. The following provides a summary of the final rule provisions and effective dates for various sections of the rule. Other helpful summaries of the rule include BLM's Fact Sheet, BLM Q&A re Waste Prevention.

## Rule Summary

The Waste Prevention, Production Subject to Royalties, and Resource Conservation Rule, more commonly known as the Waste Prevention Rule, focuses on reducing natural gas emissions from flaring, venting, and leaks, and increases royalty reporting requirements to provide additional royalty revenues to the federal government and Indian lessors. Realizing the prior rules were struck down by federal courts due to BLM's lack of jurisdiction to regulate environmental issues, the agency curbed its effort to regulate emissions from facilities by withdrawing regulations related to pneumatics pumps and controllers and VRUs from the final rule; however, the agency still seeks to vigorously regulate the venting and flaring of production.

The final rule expands operator production reporting and recordkeeping requirements for vented and flared volumes and the Department of Interior[1] may impose significant penalties against operators, shut-in or curtail production, or later pursue lease cancelation under existing provisions of the Mineral Leasing Act when an operator fails to "use all reasonable precautions to prevent waste of oil or gas developed." 30 U.S.C. § 225. The preamble to the final rule indicates that an operator's duty to use all reasonable precautions to prevent waste is a higher standard than merely avoiding negligence or acting as a reasonably prudent operator. Signaling that this BLM believes that oil and gas operators now may owe a somewhat higher standard of care to reduce waste when producing from federal and Indian oil and gas leases.

### Key Provisions & Changes in the Final Rule

1. ***Several new definitions will be applied by BLM and Some Proposed Definitions Were Removed:***

    a. **Gas-Wells:** Many of the rule requirements only apply to oil-wells. Oil-wells are considered wells that do not qualify as a gas-well under the final rule's definitions. In the final rule, BLM decided to keep its proposed definition for gas-well. This definition provides that if a well has

[1] Either through BLM or the Office of Natural Resources Revenue ("ONRR").

a Gas-to-Oil Ratio ("GOR") greater than 6,000 standard cubic feet of gas per barrel of oil, the well will be considered a gas-well by BLM. Note that this definition is inconsistent with some state definitions (particularly for wells drilled in the Purple Sage Wolfcamp Gas pool in New Mexico). Operators will need to be very mindful of how their computer systems flag wells as gas-wells or oil-wells for BLM and ONRR reporting. Many wells designated as gas-wells under New Mexico Oil Conservation Division Rules will now be considered oil-wells under the BLM's final rule (triggering several new reporting requirements under the final rule). Undoubtably, BLM field offices will raise questions about these inconsistencies as well.

b. **GOR:** The definition for GOR was updated in the final rule to mean gas to oil in the production stream expressed in standard cubic feet of gas per barrel of oil at standard conditions.

c. **Automatic Ignition System:** The definition for automatic ignition system was updated in the final rule to mean an automatic ignitor and where necessary to ensure continuous combustion, a continuous pilot flame. This was done to address questions about whether a continuous pilot flame was required for flares.

d. **High-pressure Flare:** The definition of what is considered a high-pressure flare was changed in the final rule to be an open-air flare stack or flare pit designed for the combustion of gas that would normally go to sales. The definition for low-pressure flare was not modified in the final rule and will consist of any flares that do not qualify as a high-pressure flare. The high-pressure flare definition clarification is helpful and will be important when determining which flares need to be equipped with meters (as discussed below).

e. **Key Removed Definitions:** The definitions for "storage vessel" and "unreasonable and undue waste of gas" were not included in the final rule.

2. ***No exceptions or variances for State rules:*** The ability for States and Tribes to apply for variances when they have their own rules in place was not included in the final rule. As a result, operators will need to comply with both BLM requirements and any state or Tribal requirements or regulations related to Waste Prevention. This will be most impactful in New Mexico, where the State has a somewhat duplicative Waste Minimization Rule in place.

3. ***No requirements for pneumatics or VRUs:*** The proposed requirements for pneumatic pumps, pneumatic controllers, and VRUs were removed entirely in the final rule.

4. ***Safety, Oil Storage Tank, and LDAR Requirements apply to operations on Federal and Indian Surface Estates:*** Sections 3179.50 (re prohibitions on venting, the location of flares and requirements for auto-ignite or on-demand ignition equipment), 3179.90 (requirements for oil storage tank vapors), and 3179.100 – 3179.102 (the requirements for LDAR programs) will only apply to equipment located on a Federal or Indian *surface estate*. This is a change form the proposed rule, which specified that these sections would only apply to facilities located on the surface of a Federal or Indian lease. Companies will, therefore, want to take a second look to see where they have facilities on surface estates owned by the BLM, Tribal Governments, private Indian Allottees, or other Indian surface estate ownership.

5. ***LDAR Plans will be conducted on a statewide basis:*** Under the final rule, operators will still need to prepare LDAR plans and submit them to the BLM. However, these plans will now be prepared

on a state-basis, likely meaning that the LDAR plan should cover all operations located on Federal or Indian lands within a State Office's jurisdiction. The first LDAR program report needs to be filed with BLM within 18 months after the effective date of the final rule, and then annually on the anniversary date of the first filing thereafter. Notably, there is an inconsistency in the final rule between the language for the scope of an operator's LDAR plans and the more general rule scope provisions discussed above. As mentioned above, BLM specifically states in the scope provisions of the final rule that the LDAR sections 3179.100 – 3179.102 only apply to operations and equipment located on the Federal and Indian *surface estate*; however, Section 3179.100(b) then provides that operator's LDAR programs must cover operations and production equipment located on a Federal or Indian *lease*. As a result of this inconsistency, industry will need to seek clarity from BLM.

6. ***Waste Management Plan contents are streamlined & an alternative to self-certify is added:*** The final rule will require operators to file Waste Management Plans ("WMP") along with their applications for permits to drill ("APDs") or self-certify that 100% of the gas produced from the well proposed in the APD can be captured by the operator. The WMP process was both streamlined and clarified in the final rule. BLM confirmed that WMPs or self-certifications are only required for oil-wells. Additionally, BLM streamlined the contents of a WMP to include: (1) information regarding anticipated production from the well, (2) an anticipated decline curve covering the first 3 years of production; and (3) confirmation that a midstream contract is in place to handle 100% of the production capacity. Alternatively, operators can file a self-certification along with their APD which commits the operator to capture 100% of gas produced, except in emergencies. BLM takes the position that if an operator self-certifies, they take on an obligation to pay royalties on 100% of the production - indicating this could be a shortcut if operators are concerned about royalty reporting. Nonetheless, operators should be careful to make sure that certified statements made to BLM are accurate, as any purported false statements could lead to the Department of Interior asserting claims under the False Claims Act. The ONRR has a history of bringing False Claims Act charges against oil & gas operators for royalty reporting inconsistencies. As a result, operators may want to be cautious when using the self-certification process offered in the final rule.

7. ***Creating a Heightened Standard to Reduce Waste:*** Under the Mineral Leasing Act in 30 U.S.C. § 225, BLM can pursue lease cancelation if an operator fails to "use all reasonable precautions to prevent waste of oil or gas developed." The final rule specifically provides in Section 3179.40 that operators must use all reasonable precautions to prevent the waste of oil and gas from leases. The final rule made changes to remove any reference to negligence or prudence to the definitions of unavoidable losses (discussed below). In the preamble, BLM explains that the requirement to undertake "all reasonable precautions to prevent waste" requires a higher standard of care than merely avoiding negligence or acting as a reasonably prudent operator. The rule further provides that BLM can add conditions of approval in APDs to require operators to take reasonable measures to prevent waste, or issue further orders after a well has been drilled that require an operator to take reasonable measures to prevent waste. Reasonable measures to prevent waste can reflect new advances in technology or changes in industry practice.

8. ***Determining when oil and gas is unavoidably lost:*** Historically, avoidable losses of oil or gas have been considered royalty bearing and unavoidable losses are not royalty bearing. In past years, BLM has not found a lot of avoidable losses. However, where avoidable losses were found, previous BLM regulations and guidance determined that such losses were the result of venting or

flaring without prior authorization that was due to: (1) negligence on the part of the lessee or operator; (2) failure to take all reasonable measures to prevent the loss; or, (3) failure to comply with lease terms, regulations, orders, or provisions of the approved operating plan. In this rulemaking, BLM makes changes to this process. BLM decided in the final rule that it will no longer look at negligence or prudence when determining whether a loss was avoidable or unavoidable. Instead, if a loss of oil or gas does not qualify as an unavoidable loss (discussed below), the loss will automatically be deemed avoidable (and thus royalty bearing).

- Unavoidable losses of oil occur when oil is lost after "the operator has taken reasonable steps to avoid waste, and the operator has complied fully with applicable laws, lease terms, regulations, provisions of a previously approved operating plan, and other written orders of the BLM." § 3179.41.

- Unavoidable losses of gas occur when "the operator has taken reasonable steps to avoid waste, and the operator has complied fully with applicable laws, lease terms, regulations, provisions of a previously approved operating plan, and other written orders of the BLM; <u>and gas is lost from the following operations or sources</u>:
  (1) Well drilling, subject to the limitations in § 3179.80;
  (2) Well completion and recompletion flaring allowances in § 3179.81;
  (3) Subsequent well tests, subject to the limitations in § 3179.82;
  (4) Exploratory coalbed methane well dewatering;
  (5) Emergency situations, subject to the limitations in § 3179.83;
  (6) Normal operating losses from a natural-gas-activated pneumatic controller/pump;
  (7) Normal operating losses from an oil storage tank or other low-pressure production vessel that is in compliance with §§ 3179.90 and 3174.5(b);
  (8) Well venting in the course of downhole well maintenance and/or liquids unloading performed in compliance with § 3179.91;
  (9) Leaks, when the operator has complied with the LDAR requirements in §§ 3179.100 and 3179.101;
  (10) Facility and pipeline maintenance, such as when an operator must blowdown and depressurize equipment to perform maintenance or repairs;
  (11) Pipeline capacity constraints, midstream processing failures, or other similar events that prevent oil-well gas from being transported through the connected pipeline, subject to the limitations in the WMP or self-certification for APD approved under the final rule or § 3179.70, as applicable;
  (12) Flaring of gas from which at least 50 percent of natural gas liquids have been removed on-lease and captured for market, if the operator has notified the BLM through a Sundry Notices and Report on Wells, Form 3160-5 (Sundry Notice) that the operator is conducting such capture and the inlet of the equipment used to remove the natural gas liquids will be a Facility Measurement Point (FMP); or
  (13) Flaring of gas from a well that is not connected to a gas pipeline, to the extent that such flaring was authorized by the BLM in the approval of the APD.

  The proposed rule had included an unavoidable loss category for initial production testing. The final rule removed this category. BLM explained in the preamble that it "eliminated the concept of initial production testing and will regulate flaring following well completion or recompletion as a sperate period in the life cycle of a newly producing formation in a well."

9. ***Gas produced from a "Gas-well" cannot be vented or flared:*** The rule prohibits venting or flaring gas-well gas except where the losses qualify as an unavoidable loss. As a result, operators will want to make sure (1) they are correctly categorizing their gas wells on reports to ONRR and BLM, and (2) they correctly categorize unavoidably lost gas reported from these wells.

10. ***Gas produced from an "Oil-well" that is flared due to pipeline constraints, midstream processing failures, or similar events is unavoidably lost subject to the following limitations:***
    - No royalty due on 0.08 mcf per barrel of oil produced per month for the first year after the rule is effective.
    - No royalty due on 0.07 Mcf per barrel of oil produced per month for the second year after the final rule is effective.
    - No royalty due on 0.06 Mcf per barrel of oil produced per month for the third year after the final rule is in effect.
    - No royalty due on 0.05 Mcf per barrel of oil produced per month for the rest of time.
    - BLM can order the well to be shut in if venting and flaring is equal to 1 Mcf per barrel of oil produced for 3 consecutive months and BLM confirms flaring is ongoing.

    These thresholds were changed significantly in the final rule from what was originally proposed.

11. ***BLM allows production sent to flares to be commingled without BLM approval.*** This is a significant change in the final rule that was not included in the original proposal. However, site facility diagrams will need to be updated to reflect the commingling.

12. ***High-pressure Flare Meters*.** High-pressure flares that have flare volumes more than 1,050 Mcf/month (above the averaging period) must meter the gas flared. The final rule specifies the types of meters that can be used include either: *orifice plates and orifice meter tubes or ultrasonic meters*. The final rule removed the 5% uncertainty requirement for high-pressure flare meter measurements. The final rule also included new requirements for using ultrasonic meters. And, in response to comments concerning the safety of using orifice meters on high-pressure flares, the rule requires operators to evaluate their production facilities to determine which type of meter is safe to use. Thermal mass meters are not approved by BLM.

13. ***New Gas Sampling Requirements*.** The final rule requires gas samples to be taken for high-pressure flares. Samples can be taken at the flare meter; at the gas Facility Measurement Point ("FMP"), or at another location approved by the BLM.

14. ***New Deadlines for Meter Installation, Measurement, and Gas Sampling*.** The final rule includes the following deadlines to comply with measurement compliance for high-pressure flares and gas sampling:

    - If flared volumes are greater than 30,000 Mcf/month, the effective date is 6 months after the effective date of the final rule.
    - If the flared volumes are between 6,000 Mcf/month and 30,000 Mcf/month, the effective date is one year after the final rule goes into effect.
    - If the flared volumes are between 1,050 Mcf/month and 6,000 Mcf/month, the effective date is 18 months after the effective date of the final rule.
    - If the flared volumes are less than 1,050 Mcf/month then the volumes do not need to be metered and can be estimated.

15. ***BLM Specifies a Calculation to Estimate Flare Volumes that Aren't Required to be Metered.*** Low-pressure flare volumes and high-pressure flares volumes from a flare that combusts less than 1,050 Mcf/month must be calculated using a new formula specified in the final rule.

16. ***Reporting to ONRR is specified in the Final Rule.*** The final rule specifically states that operators must report all flared volumes, both avoidable and unavoidable losses to ONRR. No similar requirement was included for vented volumes, but the preamble of the rule did indicate the royalties would be due on vented volumes. This language creates ambiguity regarding the reporting requirements for operators. Operators must use an FMP number on the OGOR report submitted with ONRR for the flare.

17. ***The final rule also contains a new requirement to report flared gas quality Btu on OGOR forms submitted to ONRR based on the gas analysis conducted under the final rule***.

18. ***New recordkeeping requirements***. The final rule contains new recordkeeping requirements for flared volumes, emergencies, and downhole maintenance operations. Operators must maintain records documenting the:

    - Date and time when flaring begins (for both oil and gas wells), the reason, whether production was shut-in or returned to sales, when flaring stopped;
    - Date and time when an emergency begins and ends, reason for the emergency, whether gas was vented or flared, any shut-ins and when the well was returned to sales; and
    - Date and time when manual downhole liquids unloading operation or well purging begins and ends, shut-ins, when the wells was returned to sales, and/or end of well maintenance.

## Chart of Effective Dates for Substantive Rule Sections

Notably, many of the rule sections will likely be effective on the "effective date" of the final rule (i.e., 60 days after the rule is published in the Federal Register). This is important because while there are phased-in timelines to install high-pressure flare meters, there isn't a similar phase in period which specifically delays reporting to ONRR or for determining when flared volumes are royalty or non-royalty bearing. As such, operators may need to obtain guidance from both BLM and ONRR concerning what needs to be reported before meters are required to be installed.

| **Rule/Section** | **Possible Effective Date** |
|---|---|
| **3160** | |
| WMP | Effective on Effective Date |
| **3179.4** | |
| Reasonable Precautions to prevent waste | Effective on Effective Date |
| **3179.41** | |
| Determining when the loss of oil or gas is avoidable or unavoidable | Effective on Effective Date |
| **3179.42** | |
| When lost production is subject to royalty | Effective on Effective Date |
| **3179.5** | |

| | |
|---|---|
| Safety (i.e., flare vs vent, flare auto ignition and location requirements) | Effective on Effective Date |
| **3179.6** | |
| Prohibition on flaring or venting gas well gas | Effective on Effective Date |
| **3179.7** | |
| Oil Well Gas royalty free flaring limits | Phase in from Effective Date - 3 years after Effective Date |
| **3197.71** | |
| Measurement & Gas Sampling of flared oil-well gas volumes | |
| greater than 30,000 Mcf/month | 6 months after effective date |
| between 6,000 Mcf/month - 30,000 Mcf/month | 12 months after effective date |
| between 1,050 Mcf/month - 6,000 Mcf/month | 18 months after effective date |
| less than 1,050 Mcf/month | N/A |
| **3179.72** | |
| Required reporting and recordkeeping of venting and flared gas volumes | |
| Reporting flared volumes | Effective on Effective Date using all applicable ONRR reporting requirements |
| Reporting BTU for flared gas quality on OGOR | Effective on Effective Date using all applicable ONRR reporting requirements |
| Recordkeeping for flaring, emergencies, and downhole liquids unloading | Effective 3 months after the effective date |
| **3179.73** | |
| Prior determinations regarding royalty-free flaring | 6 months after final rule publication |
| **3179.8** | |
| Loss of well control while drilling | Effective on the effective date |
| **3179.81** | |
| Well completion or recompletion flaring allowance | Effective on the effective date |
| **3179.82** | |
| Subsequent well tests for existing completion | Effective on the effective date |
| **3179.83** | |
| Emergencies | Effective on the effective date |
| **3179.9** | |
| Oil storage tank vapors | Effective on the effective date |
| **3179.91** | |
| Downhole Well Maintenance/Liquids Unloading | Effective on the effective date |
| **3179.92** | |
| Size of Production Equipment | Effective on the effective date |
| **3179.1** | |
| LDAR | 18 months after the effective date |
| **3179.101** | |
| Repairing Leaks | Effective on the effective date |
| **3179.102** | |
| Recordkeeping for LDAR | Effective on the effective date |
| **3179.2** | |
| Immediate Assessments | Effective on the effective date |

## Summary of Advocacy Wins

Several items advocated for by industry were addressed by the BLM in the final rule:

| Topic/Item Advocated For | Result in the Final Rule |
|---|---|
| WMP | Streamlined requirements. |
| Automatic Ignition System Definition | Updated to include on-demand combustion. |
| High Pressure Flare Definition | Partially updated to be volumes that can be routed to sales. |
| Leak Definition | Partially updated. |
| Ability to use on-demand ignition systems | BLM adopted this into the final rule. |
| Arbitrary flaring limits of 1050 Mcf/month Per Lease, CA, or PA | BLM create a new per well system. |
| Requirement to use Orifice Meters for High-pressure flares | Expanded to allow for Ultrasonic Meters. |
| Removal of the 5% uncertainty requirement for high-pressure flare meters | Removed from the rule. |
| Completions & Recompletions Treated the Same | Same royalty free limit is applied to completions and recompletions. |
| Under the Well completion language removal of language "when gas reaches the surface" | Removed from the rule. |
| Under the Well completion language removal of language for when "oil production begins" and "when there is adequate reservoir information" | Removed from the rule. |
| Removal of pneumatics section | Removed from the rule. |
| Removing definition for oil storage vessels and instead using the term oil storage tanks | Removed and reference updated. |
| VRU Sampling Requirement removal | Entire VRU section removed. |
| Advocacy for a field LDAR Plan | BLM created a statewide LDAR plan requirement. |
| LDAR annual plan submission removed | BLM streamlined this process allow for "no change" reports. |

| | |
|---|---|
| **From:** | Ben Harney, Principal, RFA<br>Matt Kellogg, Principal, RFA |
| **To:** | American Exploration and Production Council (AXPC) |
| **Re:** | Analysis of AXPC's Comment Letter on the SEC Climate Rule |
| **Date:** | March 22, 2024 |

At the request of the American Exploration and Production Council (AXPC), Rich Feuer Anderson (RFA) is providing an analysis of the Securities and Exchange Commission's (SEC) final rules to enhance and standardize climate-related disclosures by public companies and in public offerings (Climate Rule). The analysis is specific to priority issues identified in AXPC's comment letter on the SEC's proposed Climate Rule that was filed on June 17, 2022.

AXPC's comments and subsequent advocacy were successful in improving several problematic aspects of the proposed Climate Rule. Most notable was the decision by the SEC not to finalize Scope 3 emissions reporting requirements from the original proposal. In addition, there were numerous instances in the final rule where the SEC addressed issues that were raised in AXPC's comments, including the flexibility to choose the "operational control" method for determining which entities are included in the Scope 1 and Scope 2 emissions calculations; expanding the safe harbor for forward-looking statements; subjecting Scope 1 and Scope 2 emissions reporting requirements to a materiality standard; extending the implementation timeline; limiting disclosure of confidential business information; not requiring historical emissions reporting for the years prior to the rule's effective date; recognition of the existence of the Environmental Protection Agency (EPA) Greenhouse Gas inventory; making the Scope 1 and Scope 2 assurance standard at the "limited assurance" level, and, after 7 years, at the higher "reasonable assurance" level only for large accelerated filers; applying Reg S-X (financial statement disclosures) only to costs and expenditures and only for severe weather events, not transition risks; among others.

Despite these improvements in the final Climate Rule, AXPC member companies will still face significant, new reporting obligations and legal liability. Moreover, questions remain on several fronts, including the breadth of the "materiality" requirement related to several areas of climate disclosure (e.g., internal carbon pricing, scenario analysis, applicability of European Union's Corporate Responsibility Directive disclosures); the definition of "other natural condition"; and the precise scope of the safe harbor for forward-looking statements, to name a few.

In addition to the analysis of the final Climate Rule, RFA has identified potential next steps that AXPC, or companies individually, may wish to take to seek additional clarification of, or targeted relief from, certain requirements in the final Climate Rule. The final rule is subject to litigation (currently consolidated in the 8th Circuit Court of Appeals) and the final rule will likely be stayed from becoming effective pending the outcome of litigation. However, even with the ongoing litigation, RFA expects that the

SEC will continue, at the staff level, to move forward with a process for providing clarity to market participants on aspects of the final rule that are ambiguous, likely through a combination of generally applicable Frequently Asked Questions (FAQs) and targeted relief through no-action letters. Should the Climate Rule become effective, it will be important for companies to have participated in these implementation efforts.

## Table of Contents



# I. Regulation S-K: Qualitative Disclosures

**1. Scope 3 Emissions Reporting**

**AXPC's Position:** AXPC strongly recommended that the SEC remove the requirement for companies to disclose Scope 3 emissions. AXPC argued that requiring Scope 3 emissions disclosures would be unduly burdensome, and that the SEC did not adequately account for these burdens in its economic analysis. In addition, AXPC noted that Scope 3 emissions disclosures would provide limited value to investors.

**Outcome:** The final rule removed the requirement for companies to disclose Scope 3 emissions entirely. In eliminating the Scope 3 emissions reporting requirement, the SEC noted that it is "mindful of the potential burdens such a requirement could impose on registrants and other parties as well as questions about the current reliability and robustness of the data associated with Scope 3 emissions."[1]

Importantly, however, the SEC stated that it was only declining to require Scope 3 emissions disclosures "*at the present time*," and noted that "because many registrants will be required to disclose their Scope 3 emissions under foreign or state law or regulation, Scope 3 calculation methodologies may continue to evolve, mitigating many of the concerns noted by commenters about the disclosure of Scope 3 emissions."[2] Because the SEC explicitly left the door open to future improvements in Scope 3 calculation methodologies as more companies disclose Scope 3 emissions in Europe and California, this will make it easier for a future SEC to require Scope 3 emissions disclosures.

## 2. Organizational Boundaries

**AXPC's Position:** AXPC recommended that companies be given flexibility to select the method for establishing the organizational boundaries that determine the scope of the entities and operations included in its Scope 1 and Scope 2 emissions disclosures. Specifically, AXPC argued that the proposed rule's requirement that companies use the same organizational boundaries for emissions disclosures that they use for their consolidated financial statements would force its member companies to rely on the equity share method of calculating organizational boundaries — which would require its member companies to measure and report emissions from entities and assets over which they do not have operational control. Instead, AXPC recommended that the final rule be amended to give companies the flexibility to choose the appropriate method for determining the organizational boundaries for emissions reporting, including the "operational control" method.

**Outcome:** The final rule adopted AXPC's recommendation and allows companies to choose the appropriate method for determining their organizational boundaries for purposes of Scope 1 and Scope 2 emissions reporting. The final rule explicitly allows companies to choose the "operational control" method, as AXPC recommended. Companies must disclose the method they used to determine organizational boundaries for purposes of emissions reporting, and if the organizational boundaries "materially differ" from the organizational boundaries in their consolidated financial statements, then companies must provide a "brief description" of the difference.[3] In making this

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[1] Securities and Exchange Commission, *The Enhancement and Standardization of Climate-Related Disclosures for Investors*, Final Rule (March 6, 2024), available at https://www.sec.gov/files/rules/final/2024/33-11275.pdf [hereinafter, "Final Rule"], at 256.

[2] *Id.* at 256–257.

[3] *Id.* at 252.

change, the SEC cited the "concerns about the compliance burden and associated costs of the more prescriptive aspects of the rule proposal."[4]

**3. Climate-Related Risk Disclosures**

**AXPC's Position:** AXPC recommended that the SEC remove the requirement to disclose the "actual and potential impacts associated with climate-related risks on the registrant's strategy."

**Outcome:** The final rule did not eliminate the requirement to disclose "actual and potential impacts associated with climate-related risks on the registrant's strategy." However, the final rule narrowed this requirement in a number of ways.

First, the requirement in the final rule is limited to actual and potential *material* impacts associated with climate-related risks. According to the SEC, limiting this to "material" impacts "will help address commenters' concerns that the proposed rule could result in the disclosure of large amounts of immaterial information and thus be unduly burdensome for registrants."

Second, while the proposed rule required disclosure about the impacts of climate-related risks on "suppliers and other parties in [the registrant's] value chain," the final rule limits this disclosure to "suppliers, purchasers, or counterparties to material contracts, to the extent known or reasonably available." This aligns the final rule with existing SEC rules on disclosure of information that is difficult to obtain, and should reduce the amount of information that companies are required to obtain from third parties.

Third, the final rule omits the requirement that companies include "any other significant changes or impacts" from climate-related risks. The SEC did not provide any explanation for why they omitted this requirement, but it should further reduce the amount of information that companies are required to disclose.

**Redline:** Below is a redlined version of the relevant changes that the SEC made in the final rule:

> § 229.1502 (Item 1502) Strategy.
>
> (b) Describe the actual and potential material impacts of any climate-related risks identified in response to paragraph (a) of this section on the registrant's strategy, business model, and outlook~~.~~, including, as applicable, any material impacts on the following non-exclusive list of items:

[4] *Id.*

~~(1) Include impacts on the registrant's:~~

~~(i)~~ (1) Business operations, including the types and locations of its operations;

~~(ii)~~ (2) Products or services;

~~(iii)~~ (3) Suppliers, purchasers, or counterparties to material contracts, to the extent known or reasonably available ~~and other parties in its value chain~~;

~~(iv)~~ (4) Activities to mitigate or adapt to climate-related risks, including adoption of new technologies or processes; and

~~(v)~~ (5) Expenditure for research and development.~~; and~~

~~(vi) Any other significant changes or impacts.~~

~~(2) Include the time horizon for each described impact (i.e., in the short, medium, or long term, as defined in response to paragraph (a) of this section).~~

## 4. EPA Emissions Reporting

**AXPC Position:** AXPC recommended that companies be required to furnish emissions data that has already been provided by companies to the Environmental Protection Agency (EPA) or other regulatory agencies, and that compliance with the EPA's GHG Reporting Program for Scope 1 be deemed compliance with the SEC's Scope 1 reporting requirement.

**Outcome:** The final rule does not provide that compliance with the EPA's GHG Reporting Program is deemed to be compliance with the SEC's GHG emissions requirements, but it does allow companies to rely on the EPA's emissions calculation methodology. The proposed rule would have required companies to disclose their calculation approach to calculating GHG emissions, including any emission factors and any calculation tools used. The final rule only requires a "brief" description of the protocol or standard used to calculate GHG emissions, and explicitly allows companies to use a calculation approach required in an EPA rule, the GHG Protocol's Corporate Accounting and Reporting Standard, or an ISO standard.[5]

## 5. Historical Emissions Information

**AXPC's Position:** AXPC argued that companies should not be required to report historical emissions data from fiscal years before the effective date of the final rule.

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[5] *Id.* at 253.

**Outcome:** The final rule does not require historical emissions data for fiscal years prior to the effective date of the rule, unless the company previously disclosed emissions data on a voluntary basis for a prior historical year. The SEC stated that this change "should help mitigate the compliance costs for registrants that have not yet disclosed their Scopes 1 and 2 emissions in a Commission filing."[6]

## 6. Third-Party Attestation

**AXPC's Position:** AXPC recommended that the SEC remove the requirement for companies to obtain third-party attestation for Scope 1 and Scope 2 emissions disclosures. AXPC argued that there are significant human capital constraints that make it impractical for companies to obtain assurance over emissions disclosures on the timeline in the proposed rule, because there are not enough qualified emissions attestation providers available for companies to retain.

**Outcome:** The final rule retained the requirement for most companies to obtain third-party attestation. However, the final rule exempts Smaller Reporting Companies (SRCs) and Emerging Growth Companies (EGCs) from the third-party attestation requirement — which means that only Accelerated Filers (AFs) and Large Accelerated Filers (LAFs) will be subject to third-party attestation.

For the first two fiscal years, AFs and LAFs will not be required to obtain assurance from a third-party attestation provider at all. Starting in the third fiscal year, AFs and LAFs will be required to obtain assurance from a third-party attestation provider at the lower "limited assurance" level. Starting in the seventh fiscal year, only LAFs will be required to obtain assurance from a third-party attestation provider at the higher "reasonable assurance" level. AFs will be allowed to continue at the "limited assurance" level in perpetuity.

## 7. Voluntary Disclosures

**AXPC's Position:** AXPC argued that a company's voluntary actions — specifically, (1) an internal carbon price, (2) use of climate scenario analysis, (3) climate transition plans, and (4) climate targets and goals — should not trigger additional mandatory disclosure requirements.

**Outcome:** The final rule continues to impose additional mandatory disclosures on companies that use an internal carbon price, climate scenario analysis, climate transition plans, and climate targets and goals. For example, companies that disclose climate transition plans and climate targets will be required to disclose whether the company's financial estimates and assumptions are materially impacted by severe

[6] *Id.* at 259.

weather events and other natural conditions.[7] In addition, companies that have adopted a climate transition plan will be required to describe the transition plan in their annual report, and disclose any actions taken in the previous year under the plan.[8]

However, as a compromise, the final rule included an expanded safe harbor that applies to all forward-looking statements related to internal carbon prices, climate scenario analysis, climate transition plans, and climate targets and goals.[9]

## 8. Confidential Information

**AXPC's Position:** AXPC recommended that the SEC not require companies to disclose confidential business information in any of the required climate-related disclosures, such as transition plans and scenario analysis. For example, the proposed rule would have required a company that has adopted a transition plan to describe how the company plans to mitigate or adapt to a range of transition risks, such as changes in the law that restrict GHG emissions — putting companies at risk of disclosing confidential business strategies.

**Outcome:** The final rule made a number of changes that were designed to alleviate concerns about the disclosure of confidential information. For example, the final rule eliminated the requirement to disclose how a company plans to mitigate or adapt to transition risks such as a new law that restricts GHG emissions. Similarly, in responding to the concerns raised by AXPC and other commenters about the disclosure of confidential information, the final rule limited the transition plan disclosures to only material expenditures and material impacts on financial estimates and assumptions — which the SEC stated was intended to give companies "more flexibility to determine what is necessary to disclose in order to describe the plan."[10]

In addition, for companies that use scenario analysis, the final rule states that the company "will not … be required to provide a lengthy description of the underlying parameters and assumptions that may be more likely to reveal confidential business information."[11]

## 9. Implementation Timeline

**AXPC's Position:** AXPC recommended that the SEC extend the implementation timeline by at least two years, in order to give companies more time to develop new

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[7] *See* 17 C.F.R. § 14-02(h).

[8] *See* 17 C.F.R. § 229.1502(e).

[9] *See id.* at § 229.1507.

[10] Final Rule at 139.

[11] *Id.* at 149.

internal systems, controls, and audit methodologies for the required climate-related disclosures.

**Outcome:** The final rule did extend the implementation timeline for most of the required disclosures; different disclosures will be required to phase in on different dates. Importantly, while the proposed rule would have required companies to start disclosing Scope 1 and Scope 2 emissions in 1 fiscal year, the final rule gives companies 2-3 years[12] to start disclosing Scope 1 and Scope 2 emissions.

As discussed above, the final rule also extends the timeline for when companies must start providing assurance at the lower "limited assurance" level, and the higher "reasonable assurance" level. The proposed rule would have required large accelerated filers (LAFs) to provide assurance at the "limited assurance" level in 2 years, and at the "reasonable assurance" level in 4 years. Under the final rule, LAFs will be required to provide assurance at the "limited assurance" level in 3 years, and at the "reasonable assurance" level in 7 years — an increase of 1 and 3 years, respectively.

## 10. Safe Harbor

**AXPC's Position:** AXPC strongly recommended that the safe harbor for forward-looking statements be expanded beyond Scope 3 emissions reporting, to include inherently subjective disclosures such as targets and goals.

**Outcome:** The final rule adopted AXPC's recommendation to expand the safe harbor significantly. The proposed rule would have only applied the safe harbor to Scope 3 emissions disclosures, and not to targets and goals, transition plans, scenario analysis, or any other disclosures required under the rule. Because the final rule eliminated the requirement to disclose Scope 3 emissions, the safe harbor was taken out of the Scope 3 emissions section, and was applied to other disclosures required in the final rule.

Specifically, the safe harbor now applies to forward-looking statements about:

1. Transition plans (*see* § 229.1502(e));
2. Scenario analysis (*see* § 229.1502(g));
3. Internal carbon prices (*see* § 229.1502(f)); and
4. Climate-related targets and goals (*see* § 229.1504).

[12] The exact timeline will depend on when a company's fiscal year begins. Under the final rule, large accelerated filers must start disclosing Scope 1 and Scope 2 emissions in the fiscal year beginning in calendar year 2026. Thus, if a company's fiscal year starts on January 1, then the fiscal year that begins in calendar year 2026 is also 2026, and the company will have 2 years to start reporting Scope 1 and Scope 2 emissions. However, if a company's fiscal year starts in September, then the fiscal year that begins in calendar year 2026 is 2027.

# II. Regulation S-X: Financial Statements

## 1. Climate-Related Disclosures in Financial Statements

**AXPC's Position:** AXPC recommended that the SEC remove the requirement to "include climate-related metrics in financial statements," and to "remove any requirements to disclose how climate-related risks have affected, or are reasonably likely to affect, its consolidated financial statements." Notably, AXPC criticized the requirement to disclose the "financial impacts" on each line-item of severe weather events and other natural conditions, as well as transition activities. AXPC argued that these financial impact metrics were overly ambiguous and burdensome.

**Outcome:** While the final rule did not completely remove all of the climate-related metrics required to be disclosed in financial statements, it significantly narrowed the climate-related metrics that are required to be disclosed in financial statements.

Broadly, the proposed rule would have required companies to disclose in their financial statements three categories of climate-related information:

A. Financial Impact Metrics;
B. Expenditure Metrics; and
C. Financial Estimates and Assumptions.

### A. Financial Impact Metrics

The proposed rule contained two "Financial Impact Metrics" that companies would have been required to disclose in their financial statements:

I. Financial impacts of severe weather events and other natural conditions; and

II. Financial impacts related to transition activities.

The final rule completely eliminates both Financial Impact Metrics from Reg S-X. In explaining this decision, the SEC stated that "we were persuaded by those commenters that stated the proposed Financial Impact Metrics would be burdensome and costly for registrants because of the updates that would be necessary to internal systems and processes."[13] The SEC further noted that eliminating the Financial Impact Metrics "will reduce costs and ease many of the burdens that commenters stated would arise as a result of a requirement to disclose financial impacts on a line item basis."[14]

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[13] Final Rule, at 447.

[14] *Id.* at 407–408.

B. Expenditure Metrics

The proposed rule contained two "Expenditure Metrics" that companies would have been required to disclose in their financial statements:

I. Expenditures to mitigate risks of severe weather events and other natural conditions; and

II. Expenditures related to transition activities.

The final rule significantly narrows the Expenditure Metrics in two ways. First, for severe weather events and other natural conditions, the final rule changes "expenditures to mitigate risks" to "expensed as incurred and losses resulting from severe weather events and other natural conditions." The SEC concluded that requiring companies to disclose all mitigation-related expenditures was unworkable because mitigating for climate change is likely only one reason among several reasons — most not related to climate — why companies make the decision to incur an expense. In addition, the SEC conceded that "[r]equiring disclosure of expenditures related to mitigation activities would present challenges for registrants in terms of forecasting and determining their expectations about future severe weather events at the time they are making expenditure decisions."[15]

Second, the final rule eliminates the requirement that companies disclose "expenditures related to transition activities" in their financial statements. Similar to the reasoning for mitigation-related expenditures, the SEC acknowledged that companies "make business decisions, such as incurring an expenditure to purchase a piece of machinery that is more energy efficient, for multiple reasons, and as a result, a registrant's transition activities may be inextricably intertwined with its ordinary business activities."[16]

C. Financial Estimates and Assumptions

The proposed rule contained two items related to "Financial Estimates and Assumptions" — essentially, disclosures about whether the financial estimates and assumptions companies used to produce their financial statements were impacted by climate change. Specifically, the proposed rule would have required the following categories in their financial statements:

I. Financial estimates and assumptions impacted by severe weather events and other natural conditions; and

II. Financial estimates and assumptions impacted by transition activities.

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[15] *Id.* at 459.

[16] *Id.* at 462.

The final rule made a number of changes to the Financial Estimates and Assumptions requirements. First, rather than requiring companies to disclose impacts on financial estimates and assumptions from "a potential transition to a lower carbon economy," the final rule only requires companies to disclose the impacts on financial estimates and assumptions from any "transition plans *disclosed by the registrant*."[17] In other words, any company that has not voluntarily disclosed a transition plan is not required to disclose the impacts on financial estimates and assumptions related to transition activities.

Second, for severe weather events and other natural conditions, the final rule added a materiality qualifier. In other words, instead of being required to make this disclosure when *any* of a company's financial estimates and assumptions were impacted *at all* by severe weather events and other natural conditions, the final rule says that companies will only be required to make this disclosure if their financial estimates and assumptions were *materially* impacted by severe weather events and other natural conditions.[18] The SEC considered adding two materiality qualifiers — only material financial estimates and assumptions that were materially impacted — but concluded that a second materiality qualifier would not actually reduce the required disclosures.[19]

## 2. 1% Threshold for Line Item Disclosures

**AXPC Position:** AXPC strongly opposed the requirement that companies disclose climate-related impacts on each line item of their financial statements if the impact on a line item is 1% or greater. AXPC criticized the 1% threshold as "arbitrary and inconsistent with the current definition of materiality applied by most registrants in the consolidated financial statements."

**Outcome:** The final rule effectively increased the 1% threshold, but it did so by changing the *denominator*, not the numerator. Instead of applying the 1% threshold to each line item, the final rule only requires disclosure when a severe weather event or other natural condition has a greater than 1% impact on either (1) pre-tax income or loss

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[17] 17 C.F.R. § 210.14-02(h) (emphasis added).

[18] Specifically, the final rule changes "financial estimates and assumptions impacted by severe weather events and other natural conditions" to "financial estimates and assumptions *materially* impacted by severe weather events and other natural conditions."

[19] *See* Final Rule at 506 ("[W]e think that adding a second materiality qualifier is unnecessary because the disclosures that would result from the two different alternatives would likely be the same. Namely, we think it is unlikely that there could be "material" impact to an estimate or assumption if the estimate or assumption itself was not material to the financial statements.").

(for the income statement),[20] or (2) stockholders' equity or deficit (for the balance sheet).[21] Changing the denominator will have the effect of significantly increasing the 1% threshold, because now disclosure will only be required when aggregate expenditures related to a severe weather event exceed 1% of a much higher number (i.e., pre-tax income or stockholders' equity).

For example, a company with pre-tax income of $12 billion will only be required to disclose expenditures or losses as a result of severe weather events on its income statement if those aggregate expenditures or losses exceed $120 million in the relevant fiscal year. Similarly, a company with stockholder equity $20 billion will only be required to disclose capitalized costs and charges from severe weather events on its balance sheet if those aggregate capitalized costs and changes exceed $200 million in the relevant fiscal year.

For oil and gas exploration and production companies, whose pre-tax income is often tied closely to commodity prices, tying the disclosures to pre-tax income means that they will need to track expenditures on severe weather events and other natural conditions very closely — in a year with persistently low commodity prices, their pre-tax income will be lower, and a smaller expenditure on a severe weather event could trigger disclosure.

## III. Next Steps

Even though the Climate Rule is currently in litigation in the 8th Circuit Court of Appeals, RFA expects the SEC to move forward with a process for providing clarity to market participants on aspects of the final rule that are ambiguous, likely through a combination of generally applicable Frequently Asked Questions (FAQs) and targeted relief through no-action letters. We believe it is important for companies to be engaged in this process, so that they will be ready to comply with the rule if the SEC prevails in the litigation and the rule becomes effective.

There are a number of issues in the final rule on which we believe it would be beneficial to seek clarity from the SEC staff. Below are just a few examples of the many elements of the final rule that will need clarification from the SEC:

1. <u>The Definition of "Other Natural Conditions"</u>: The final rule requires extensive disclosures relating to "severe weather events and other natural conditions" — including financial statement disclosures about expenditures and losses resulting

[20] More precisely, the measure for the income statement is "one percent of the absolute value of income or loss before income tax expense or benefit for the relevant fiscal year." *See* 17 C.F.R. § 210.14-02(b)(1).

[21] The precise measure for the balance sheet is "one percent of the absolute value of stockholders' equity or deficit at the end of the relevant fiscal year." *See id.* at § 210.14-02(b)(2).

from severe weather events and other natural conditions. The final rule provides a non-exhaustive list of severe weather events — specifically, "hurricanes, tornadoes, flooding, drought, wildfires, extreme temperatures, and sea level rise." However, the final rule does not provide any clarity on what "other natural conditions" means. Because this is a key phrase that will trigger financial statement disclosures, it is critically important for companies to understand what exactly constitutes an "other natural condition."

2. Confidential Information: While the final rule made a number of changes that were intended to alleviate companies' concerns with disclosing confidential information, there will undoubtedly remain considerable ambiguity about what information is considered confidential, and when companies can decline to include that information in the required disclosures about transition plans and scenario analysis. Because the transition plans and scenario analysis for each company is very different, and is often tailored to the company's particular business, companies will likely need assurance from the SEC staff about when certain information about the company's transition plan is sufficiently confidential that it can be safely omitted from the company's disclosures.

3. Scope of the Safe Harbor: The safe harbor in the final rule is significantly expanded from the proposed rule — the proposed safe harbor would have only applied to forward-looking statements about Scope 3 emissions, while the final safe harbor applies to forward-looking statements about transition plans, scenario analysis, internal carbon prices, and targets and goals. As a result, there remain questions about what constitutes a "forward-looking statement" in the context of, for example, scenario analysis. Because scenario analysis is, by definition, a forward-looking exercise, does that mean that the safe harbor covers all of a company's disclosures about its scenario analysis? Or does the carve-out for "historical facts" in the safe harbor mean that any elements of the scenario analysis that rely on historical facts to make projections about the future are *not* covered by the safe harbor?