

DOMESTIC ENERGY PRODUCERS ALLIANCE

DEPA

APRIL

2023



DRILLER

DEPA REPORT ON INDUSTRY, LEADERSHIP, LEGISLATION AND ENERGY REGULATION

IRA METHANE CHARGES FINALIZE IN MAY

Comments are Necessary, Deadline June 2, 2023

From the EPA website

"The Inflation Reduction Act provides new authorities under Section 136 of the Clean Air Act to reduce methane emissions from the petroleum and natural gas sector through the creation of the Methane Emissions Reduction Program."

Despite the fact that petroleum and natural gas facilities are already subject to GHG emissions reporting, a first-ever federal charge/tax on greenhouse gas emissions will begin January 1, 2024. This reporting will require calculation of baseline and excess methane emissions to identify emissions subject to the charge.

Who will be impacted? E&P operators with annual CO₂ equivalent emissions (not methane) that exceed 25,000 tons/year after an exemption for the first 0.20%

It is estimated for those producers East of the Mississippi River, anyone with 220 conventional wells (single well per pad) will exceed the exemption threshold. For those west of the Mississippi River, where the factors prescribed are higher, the threshold is lower. For those with multi-well, unconventional pads, the threshold will be much lower regardless of where your wells physically reside.

Any company with Gathering and Boosting (G&B) operations with an exemption for the first .05% of pipeline throughput. Royalty owners are affected when marginal wells are shut-in due to increased taxes, making the wells uneconomic

State severance tax collections will be affected as marginal wells are shut-in due to increased taxes, making the wells uneconomic.



The proposed current language for emissions in 2024 is, the charge or emissions over the threshold is \$900 per metric ton. In 2025, the charge increases to \$1,200 per metric ton. After January 1, 2026, the charge will be \$1,500 per metric ton.

Clearly our energy independence is being threatened by these fees that will make wells uneconomic and will drastically reduce domestic production.

What happens if revisions are not made to the current language?

> EPA will have taxing, collection, audit, and enforcement authority for the first time.

> To the extent the methane tax makes marginal wells uneconomic to produce (expenses exceed revenues), the industry will shut-in production to avoid the tax, meaning:

- > Less security and less energy independence
- > Less severance taxes paid
- > Less ad valorem taxes paid

Increased expenses for wells that are not marginal will mean:

- > Less royalty payments to Lessors whose leases allow for taxes to be deducted
- > Less income taxes paid to state governments based upon the tax reducing net income.

EPA is holding a series of national listening sessions for the public to share their comments on the design of the financial and technical assistance provisions of the Methane Emissions Reduction Program.

Individuals may make oral comments during the listening sessions. Comments will be limited to three minutes per speaker.

The following is a list of the public listening sessions. You may [register here](#) for any or all of these sessions.

- May 2 | 4-6pm EST | For General Audiences
- May 3 | 1-3pm EST | For State and Local Governments
- May 3 | 4-6pm EST | For Non-Govt Organization, Community and Environmental Justice Groups
- May 9 | 1-3pm EST | For Tribal Governments
- May 9 | 4-6pm EST | For Industry, Small Businesses and Labor Groups

EPA is looking for feedback on the following questions dur-

ing the listening sessions related to providing financial and technical assistance, with a focus on near-term, high-priority activities:

1. Which listed actions in the Methane Emissions Reduction Program should be prioritized for financial and technical assistance?
2. What methane mitigation technologies and practices should EPA prioritize for financial assistance to achieve near-term emission reductions?
3. What methane monitoring technologies and research should EPA prioritize for financial assistance to meet near-term monitoring needs?
4. Are there areas of financial and technical assistance for methane mitigation from marginal conventional wells that should be prioritized?
5. Are there emerging monitoring and mitigation technologies that should be prioritized for financial assistance to support innovation and encourage methane emissions reduction efforts?
6. What kinds of technical assistance would be most valuable?
7. How can financial assistance be used to mitigate the health effects of methane and other greenhouse gas emissions in low-income and disadvantaged communities?

Written comments on these questions will be accepted until June 2, 2023. Submit to IRASTakeholders@epa.gov. For questions about submissions you can email MERP@epa.gov.



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DEPA believes in seeking common ground, through common sense solutions, to the challenges facing our industry. Our bipartisan approach provides a uniquely powerful voice for our members at the state and national level.

*Our work is critical.
Your support is vital.*

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SUBCOMMITTEE ON ENVIRONMENT, MANUFACTURING, AND CRITICAL MATERIALS

“Exposing the Environmental, Human Rights, and National Security Risks of the Biden Administration’s Rush to Green Policies.”

This hearing was held April 26. Witness were:

- Mark Mills, Senior Fellow, Manhattan Institute
- Ashley Nunes, Director of Federal Policy, Climate, and Energy, Breakthrough Institute
- Daniel Simmons, Principal, Simmons Energy and Environmental Strategies
- Trevor Higgins, Senior Vice President, Energy and Environment, Center for American Progress III.

BACKGROUND

A. BIDEN ADMINISTRATION POLICIES

Beginning on his first day in office, President Biden has imposed a “rush to green” policy agenda through the issuance of executive orders and new regulations that have raised the price of energy and electricity, as well as increased America’s dependence on China, OPEC, and Russia for energy supplies. Specifically, the Biden administration has advanced a “whole-of government” effort to increase regulations across many sectors of the economy. Through the championing the expansive policy and unprecedented spending of the Infrastructure Investment and Jobs Act and the Inflation Reduction Act, signing nine unique executive orders on climate, and coordinating a cross-agency effort to increase energy and environmental regulations, President Biden is leading a “rush to green.”

For example, President Biden canceled the permit for the Keystone XL pipeline, issued a moratorium on oil and gas drilling on federal lands and waters, deliberately delayed Federal Energy Regulatory Commission (FERC) pipeline certifications, pleaded with OPEC, Russia, and Venezuela to increase oil production, and violated U.S. trade laws by allowing Chinese solar panel companies to evade tariffs. In combination, the Biden administration’s actions are picking winners and losers in United States energy markets based on energy technology rather than emissions reductions.

More recently, the Environmental Protection Agency’s (EPA) proposed “Multi-Pollutant Emission Standards

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for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles” aims to electrify the transportation sector. Under the proposal, electric vehicles (EVs) are projected to account for 67 % of new light-duty vehicle sales in model year 2032. In the proposed rule, EPA acknowledged that a “transition period must take place in which a robust supply chain develops to support production of [critical minerals],” but in the rulemaking, the Agency did not account for the time and scale necessary to build up that supply chain.

Given the scale and pace of the Biden administration’s “whole-of-government effort” on climate, it is important to understand the environmental, human rights, and national security risks associated with such policies and mandates.

B. Critical Materials and Supply Chains

To have a complete accounting of the full impacts of energy technologies, it is essential to examine the environmental, human rights, and national security issues associated with critical material inputs, such as critical minerals. The International Energy Agency (IEA) emphasized, “[m]inerals offer a different and distinct set of challenges, but their rising importance in a decarbonizing energy system requires energy policy makers to expand their horizons and consider potential new vulnerabilities.”

Continued on Pg 9



DC FLY-IN AND BOARD MEETING 2023

UPDATED EVENT AGENDA

WEDNESDAY, MAY 10

- 12:00 PM | GROUP LUNCH
- 1:00-3:00 PM | DEPA BOARD MEETING
- 5:30-6:30 PM | WELCOME RECEPTION
- 6:30-8:30 PM | DINNER

THURSDAY, MAY 11

- 7:30 AM | GROUP BREAKFAST WITH SPEAKER
- 9:00 AM | SHUTTLE TO THE HILL
- 10:00 AM- 12:30 PM | SPEAKERS IN RAYBURN HOB
- 1:00 PM | LUNCH WITH RSC, RPC, AND HEAT
- 3:00 PM | RETURN TO THE HOTEL
- 4:30 PM | RECEPTION

OTHER DETAILS

Event Hosted at
The Hay Adams Hotel
800 16th Street NW
800-4245054
or
202-638-6600

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STANDING UP FOR OUR INDUSTRY

It has been clear to the DEPA Leadership that no organization planned to stand up to take on legal battles that **should** be fought in the current movement to force a premature and impossible energy transition.

When EPA proposed new emissions standards seeking a substantial restructuring of the American automobile market in pursuit of unauthorized climate goals, someone had to step in. Someone had to say EPA has no authority to promulgate the Standards and functionally force vehicle manufacturers to produce more electric vehicles. **DEPA became the Plaintiff in Competitive Enterprise Institute (CEI) V EPA Brief filed in November 2022.**

The EPA and the National Highway Traffic Safety Administration (NHTSA), in close coordination with the State of California, have embarked on a concerted effort to force electrification of the Nation's vehicle fleet with the California Waiver. **DEPA stepped up as Plaintiff** under the American Fuel and Petrochemical Manufacturers (AFPM) suit in the DC Circuit. DEPA member California Independent Petroleum Association (CIPA) is our Declarant in the case. Oral Arguments were scheduled for May 1, 2023, but have been moved to September 2023.

When the SEC released its proposed climate disclosure rule, revealing their plan to require such cumbersome and nearly impossible reporting on greenhouse gas emissions that corporations would not be able to comply with them and have no basis in science or economic policy. DEPA, along with many others, provided comments on the proposed rule. However, DEPA has gone a step further in working with the Pacific Legal Foundation to be ready to file a lawsuit against the SEC if the rule is finalized and put in place.

DEPA has taken on the role of fighting back on these backhanded attempts to reshape the energy, transportation, and national security of America, and we will continue to do so!

SECURITIES EXCHANGE COMMISSION (SEC) PROPOSED CLIMATE DISCLOSURE RULE

The rule is so complex it runs 506 pages, contains 1,068 footnotes, references 194 dense academic and governmental reports, imposes a \$10.235 billion cost on society, and seeks answers to 196 discrete questions. The sheer volume of information would overwhelm investors, obscure transparency, and divert excessive resources away from productive, revenue-generating activities into bean-counting overhead.

It would require corporations to report Scope 1, 2, and 3 greenhouse gas (GHG) emissions of everything related to the production, end-use consumption, and disposal of their products. Companies would have to provide up to 232 discrete data points, several of which would themselves require the collection of thousands of data points.

The SEC has neither the authority nor expertise to measure emissions. EPA already requires GHG emissions reporting, which SEC would duplicate down to an absurd level of detail impossible to achieve. Companies would have to collect data from all the manufacturers and service providers they use, down to how much rubbish they dispose, the hotel stays of their employees, and the mileage of their vehicles, as well as anticipate all the ways consumers would use their products, a nearly impossible task.

Congress has not passed any law requiring the elimination of fossil fuels.

DEPA has signed an agreement with the Pacific Legal Foundation who will file a lawsuit against the SEC if this rule is put in place. DEPA will be the plaintiff.

Rule was expected in April 2023 – no other update is available.



STANDING UP FOR OUR INDUSTRY

EPA EMISSION STANDARDS

DEPA as Plaintiff in Competitive Enterprise Institute (CEI) V EPA Brief filed November 2022.

No other court dates are set. Docket ID No. EPA-HQ-OAR-2021-0317

EPA seeks to substantially restructure the American automobile market in pursuit of unauthorized climate goals. Under no plausible reading of the Clean Air Act was EPA given authority to perform this restructuring. Section 202 of the Clean Air Act charges EPA with promulgating “standards” about the volume of air pollutants that motor vehicles may lawfully emit. In 2007 EPA began including greenhouse gases in these standards. And in 2020 it promulgated carbon dioxide emissions standards that imposed relatively manageable compliance burdens on car manufacturers. Those standards were set to govern for car model years 2022-2026.

After President Biden’s inauguration EPA radically shifted course. On his first day in office, President Biden promulgated an Executive Order emphasizing a new climate agenda. The President singled out EPA’s 2020 standards as one of a handful of existing rules that he wanted revisited. As promulgated, those estimates presuppose that the “social cost” of each unit of a greenhouse gas emission is enormous. And President Biden stacked the regulatory deck by directing EPA to rewrite its emission standards in a way that accounts for those extraordinary estimates.

EPA responded by promulgating substantially more stringent emissions standards (the “Standards”) for vehicle carbon dioxide emissions. And the Standards also do something wholly new: they functionally force vehicle manufacturers to start shifting their fleet production to an ever-increasing share of electric vehicles. They do that by measuring not whether an *individual* vehicle complies with the emission standards, but a manufacturer’s fleet *as a whole* complies, after averaging the emissions from vehicles fleet wide. And that averaging counts electric vehicle emissions as zero. The Standards are so stringent that, in EPA’s own words, they will “necessitate” that manufacturers “further deploy” electric vehicles to comply under the fleet-averaging. EPA anticipates that the Standards will force 17% of new car sales in 2026 to be electric.

EPA had no authority to promulgate the Standards and functionally force vehicle manufacturers to produce more electric vehicles. One of the many reasons why is that the Standards will place enormous new strain on the electric grid, threatening the grid’s reliability altogether. EPA previously recognized that the agency has no power to take action that would “threaten the reliability of the grid.” Instead,

action that substantially burdens grid reliability is a major question, implicating an arena where administrative agencies cannot act without “clear congressional authorization” EPA has none here. To the contrary, Congress has emphasized that *maintaining* grid reliability is a priority of the highest order. Indeed, in the instances where Congress has actually authorized EPA to take action that would affect the grid, it has emphasized that EPA must not jeopardize electric reliability. Another reason this case presents a major question is that it jeopardizes national security. An overwhelming share of the materials required to produce electric vehicles are in China and other hostile countries.

In addition, the Standards are arbitrary and capricious because their stringency was materially informed by the flawed “social cost” of greenhouse gas estimates. Among other things, those “social costs” include the costs that greenhouse gases ostensibly impose *on the world*, not just the United States. But EPA had no authority to promulgate Standards based on extra-territorial concerns. EPA also failed to reasonably explain why it was appropriate to use this new “social cost” analysis when its previous rulemaking did not. And the “social cost” analysis also resulted in EPA comparing apples to oranges in its cost-benefit analysis, because it myopically used certain mathematical presumptions to inflate the “social cost” of greenhouse gases that it did not apply to other parts of its cost-benefit analysis.

THE METHANE RULE

Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review Docket ID No. EPA-HQ-OAR-2021-0317

DEPA Participated and signed on to the comments submitted by the Spilman, Thomas and Battle law firm on behalf of the “Methane Coalition”- a collection of 20+ state and national associations.

It is anticipated that once the final rule is put in place, the Coalition or some subset of that group will file a lawsuit against EPA to challenge the rule. At the October 2022 Board meeting, the DEPA Board approved \$5000.00 in 2023 to support any legal challenge.



STANDING UP FOR OUR INDUSTRY

THE CALIFORNIA WAIVER

DEPA as Plaintiff under the American Fuel and Petrochemical Manufacturers (AFPM) suit in the DC Circuit. DEPA member California Independent Petroleum Association (CIPA) is Declarant. Oral Arguments were scheduled for May 1, 2023, but have been moved to September 2023.

When Congress enacted Section 209(a) of the Clean Air Act in 1967, California's southern coastal cities faced an acute smog problem that national emission standards were unlikely to resolve. In response, Congress authorized EPA to grant California—and only California—a limited preemption waiver governed by carefully specified criteria.

For decades, EPA granted California waivers for emission standards designed to address the State's unique *local* pollution problems. In 2005, however, California for the first time sought a waiver to establish its own emission standards not for local pollutants but for the greenhouse gases on the basis that they contribute to global climate change. EPA denied the waiver, correctly concluding that Section 209(b) does not authorize California to tackle diffuse national and international issues, but instead covers "air pollution problems [that] have their basic cause, and therefore their solution, locally in California." After a change in presidential administration, EPA flip-flopped. It reconsidered its denial and granted a greenhouse-gas waiver to California (July 8, 2009). It followed up in 2013, granting California another waiver for the standards at issue here: greenhouse-gas emission standards and a zero-emission-vehicle mandate, both of which California has trumpeted as addressing global climate change. EPA later reconsidered and withdrew the 2013 waiver, once again explaining that standards aimed at global climate change fall outside Section 209(b)'s narrow exception to federal preemption and that, in any event, California did not "need" its standards because they would not meaningfully address global climate change. Most recently, EPA flipped again, rescinding the 2019 withdrawal.

EPA got it right the first time (and again in 2019). Section 209(b) does not authorize a waiver for California emission standards targeting global climate change. Congress afforded California a targeted exemption from an otherwise-uniform national regulatory scheme so that California could continue to address its local pollution conditions. Congress did not, and could not, authorize California, alone among the 50 States, to assume a role as a junior-varsity EPA and attempt to solve a national and international issue like climate change. Any mandate to shift the Nation's automobile fleet to electric vehicles in an effort to address global climate change must come from Congress—not from federal agencies, and certainly not from a single State.

Nevertheless, the Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA), in close coordination with the State of California, have embarked on a concerted effort to force electrification of the Nation's vehicle fleet. EPA and NHTSA have promulgated their own regulations that are designed to achieve a goal Congress never set: "that 50 % of all new passenger cars and light trucks sold in 2030 be zero-emission vehicles." *Executive Order on Strengthening American Leadership in Clean Cars and Trucks*, 86 Fed. Reg. 43,583, 43,583 (Aug. 5, 2021). EPA and NHTSA hope to achieve that *ultra vires* goal in part by embracing aggressive state-law standards enacted by California. EPA purportedly authorized those state standards by invoking a Clean Air Act provision that affords California a narrow waiver of federal preemption of state motor-vehicle emission standards.

Congress has not mandated a wholesale shift in the Nation's vehicle fleet from traditional vehicles to electric vehicles—a shift that would fundamentally transform the automobile industry, the oil and gas and petrochemical industries, motor-fuel retailing, the electric grid, and thousands of related manufacturing businesses and supply chains.

“Exposing the Environmental, Human Rights, and National Security Risks of the Biden Administration’s Rush to Green Policies.”

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Each energy technology from wind to solar to EVs requires a specific mix of critical materials, including critical minerals and rare earth elements. Under IEA’s Stated Policies Scenario (which includes enacted legislation and final regula-

tions), the overall demand for critical minerals is expected to double by 2040. As production increases to meet demand, current challenges with critical mineral mining, processing, and refining will only intensify.

The United States Geological Survey’s (USGS) 2022 list of critical minerals includes 50 unique commodities, and the Energy Act of 2020 requires the Department of the Interior to update a list of critical minerals at least every three years. The most recent list includes aluminum, chromium, cobalt, copper, manganese, nickel, and zinc. The Department of Energy (DOE) defines rare earth elements as 17 elements that “play a critical role to our national security, energy independence, environmental future, and economic growth.” 16 of the 17 individual rare earth elements are included in the 2022 USGS list of critical minerals.

Focusing on specific energy technologies, wind power installations require significant amounts of copper, aluminum, and rare earth elements that comprise permanent magnets. The Congressional Research Service (CRS) noted that manufacturing wind turbines “would be 100% dependent on permanent magnet imports, primarily from China.” In addition, solar energy projects rely on aluminum, indium, gallium, and tellurium. IEA projected that expansion of solar energy projects will increase the demand of cadmium, tellurium, silicon, arsenic, gallium, and indium, depending on the type of solar photovoltaic (PV) technology. Similarly, EV batteries rely on five critical minerals: lithium, cobalt, manganese, nickel, and graphite. Compared to a conventional internal combustion engine car, an electric car requires six times the mineral inputs. Furthermore, IEA estimated that the demand for lithium will increase by 43 times by 2040.

Critical minerals are crucial for renewable energy technologies and EVs and batteries, and China dominates much of those supply chains. According to a recent Brookings report:



HEARING APRIL 26, 2023

- China refines 68% of nickel globally, 40% of copper, 59 % of lithium, and 73% of cobalt;
- China dominates global production of battery cells, including 70% of cathodes, 85% of anodes, 66% of separators,

and 62% of electrolytes;

- China has 78% of the world’s cell manufacturing capacity for EV batteries;
- Three-fourths of the world’s lithium-ion battery mega factories are located in China; and
- China is “the largest consumer of the minerals it refines”.

Meanwhile, China is unquestionably the largest emitter of greenhouse gas emissions in the world, far surpassing all other developed countries. Consequently, a push for 100% wind and solar, and EVs, without first building out our domestic critical minerals supply chains, means we will be dependent upon China and its polluting tactics.

ENVIRONMENTAL RISKS

According to the Brookings Institution, the level of enforcement of due diligence requirements in China’s mineral sector and midstream and downstream industries (e.g., refiners or original equipment manufacturers) is key to the future of making critical mineral supply chains “cleaner” and “greener.” The IEA has identified several negative environmental impacts associated with critical minerals production around the world, such as increased greenhouse gas emissions from mining and processing, environmental degradation due to changes in land use, pollution of the surrounding air and water resources, and waste from excavation. Additionally, raw ores need to be processed into usable minerals for renewable technologies. In 2019, China was found to contribute 27% of all greenhouse gas emissions -- more than all the other nations of the earth, combined. Moreover, to help fuel these efforts, Chinese provinces approved more new coal power plants in the first three months of this year than in all of 2021.”

In contrast, mining operations in the United States are heavily regulated to mitigate environmental impacts while allowing for the extraction of critical resources. Domestic critical minerals mining projects must comply with statutory requirements under the Clean Air Act, the Resource Conservation and Recovery Act (RCRA), the Toxic Substances Control Act (TSCA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Clean Water Act, the National Environmental Policy Act (NEPA). As of today, very little critical mineral extraction and processing occurs in the United States, which means that the environmental risks posed by other countries are even more significant, as the United States will be reliant upon critical mineral imports from countries with questionable environmental standards.

HUMAN RIGHTS RISKS

In 2021, 70% of global cobalt production, which is essential for EV batteries, occurred in the Kinshasa region of the Democratic Republic of the Congo (Congo). The Congo is also home to more than half of worldwide cobalt reserves. Approximately 40,000 Congolese children mine for cobalt under the incredibly harsh conditions known as “artisanal and smallscale mining,” where the children search for critical minerals by digging with their hands. Touching on child and forced labor in the region, the Department of Labor (DOL) warned that,

Tens of thousands of children work in cobalt and copper mining in the Congo’s southern Copperbelt region. This is a worst form of child labor due to the extremely dangerous nature of mining. Adults who mine these minerals also suffer from labor exploitation and unsafe conditions, such as collapsing tunnels and debt-based coercion.

The State Department corroborated the severe human rights abuses in the Congo, and the Government Accountability Office (GAO) released a report on actions to address human rights abuses associated with cobalt mining in the Congo. Focusing on first-hand accounts, Siddharth Kara’s book “Cobalt Red” details the “exploitation of the poorest people of the Congo.”

Forced labor (i.e., enslavement) and child labor concerns are not unique to the Congo. Solar modules, solar cells, polysilicon, and photovoltaic wafers produced in China are characterized by the DOL’s Bureau of International Labor Affairs as having inputs produced with forced labor. Forced labor conditions are especially acute in the Xinjiang region of China due to the persecution of the Uyghur Muslim community. Congress took action to help prevent goods, including solar panels, produced with forced labor in China from entering the U.S. through the passage of the Uyghur Forced Labor Prevention Act in late 2021, but work remains to fully secure

solar supply chains against forced labor. In addition, lithium-ion batteries from China are considered to include inputs produced with child labor.

NATIONAL SECURITY RISKS

China dominates critical mineral supply chains, which poses heightened security and supply chain risks for the United States. Currently, China controls 50 to 70% of lithium and cobalt refining and 90% of global refining capacity for rare earth elements. China is also the top producing country of rare earth elements, cobalt, lithium, copper, and nickel. Moreover, Chinese companies are heavily invested in critical mineral projects in Australia, Chile, the Democratic Republic of the Congo (Congo), and Indonesia. China controls seven of the largest cobalt mines in the Congo -- known for slave and child labor practices -- which contain 70% of the world’s cobalt supply.



Witness: Trevor Higgins, Senior Vice President, Energy and Environment, Center for American Progress III

Another national security concern, including economic and energy security, with the expansion of renewable energy is the price of critical mineral commodities. The IEA stressed that, “critical minerals threaten a decades-long trend of cost declines for clean energy technologies.” On EVs specifically, the National Wildlife Federation emphasized that, “the fluctuating price of critical minerals can greatly affect battery price,” which in turn impacts the overall price of an EV. The price of lithium, a key input for EV batteries, increased by 738% from January 2021 to March 2022. Prices for cobalt, nickel, aluminum, and copper all significantly increased over the same time period and raised the cost of wind turbines by 9% and solar PV modules by 16%.

Geopolitical events also influence commodity pricing for critical minerals. On March 8, 2022, the London Metal Exchange suspended nickel trading after the price of the commodity doubled to over \$100,000 per ton in response to Russia’s invasion of Ukraine and coordinated sanctions by vari-

ous countries. Russia accounted for 9.3% of nickel production in 2021 and represented the third largest producing country.

C. OPERATION AND DEPLOYMENT OF RENEWABLE ENERGY TECHNOLOGIES

The U.S. Energy Information Administration (EIA) indicated that the primary energy consumption by energy source in the United States in 2021 was 36% petroleum, 32% natural gas, 12% renewable energy, 11% coal, and 8 % nuclear power. Of the renewable energy portion, the breakdown is 40% biomass, 27% wind, 19% hydroelectric, 12% solar, and 2% geothermal. Given the EIA statistics, wind energy accounts for 3.2% of total U.S. primary energy consumption, and solar energy accounts for 1.4% of total U.S. primary energy consumption. According to a recent PEW Research Center Study, 67% of adults in the United States support using a mix of energy sources including oil, coal, and natural gas along with renewable sources.

Focusing on EVs, the Biden administration acknowledges that three million EVs are currently on American roads, which is only 1% of the 278 million cars registered to United States drivers. According to the EPA's proposed standards for light- and medium-duty vehicles, the Biden administration aims to increase the new EV sales from 4.5% to 67% by model year 2032.

ENVIRONMENTAL RISKS

Renewable energy projects, notably wind and solar energy installations, require a significant amount of land. Simply stated, "The U.S. will need a lot of land for a zero-carbon economy." A Brookings report highlighted that "wind and solar generation require at least 10 times as much land per unit of power produced than coal- or natural-gas fired power plants."

The National Renewable Energy Laboratory estimated that solar PVs would need an average of 5 acres per megawatt of generated electricity, and wind energy would need an average of 35 acres per megawatt of generated electricity. A study from Princeton University evaluated total land use for solar and wind by 2050 under various decarbonization scenarios, with wind and solar projects potentially taking up 1.1 million km² of land, an area equivalent to the size of Missouri, Illinois, Indiana, Ohio, Kentucky, Tennessee, Massachusetts, Connecticut, and Rhode Island combined. The study also notes that "direct land use for wind-turbine pads in net-zero scenarios is small, but the visual footprint of wind farms is significant." For solar energy installations, the "directly impacted lands are greater." EIA also illustrated that "the amount of sunlight reaching a square foot on the earth's surface is relatively small, so a large surface area is necessary to absorb or collect enough energy to be useful."



**Witness: Daniel Simmons, Principal,
Simmons Energy and Environmental Strategies**

The United States Fish and Wildlife Service referenced that wind energy facilities have been found to kill birds and bats. Various studies estimate the average number of bird fatalities per year due to wind farms to be between 234,000 and 573,093.

Risks of Negative Impacts on Americans Renewable energy, including solar and wind energy, poses challenges to electric reliability for American energy consumers. Both solar and wind are weather-dependent, intermittent energy sources that cannot be relied upon to provide baseload power. For example, EIA emphasized that a limitation of solar energy is "the availability and amount of sunlight that arrives at the earth's surface varies depending on time of day, location, season of the year, and weather conditions."

The cost of operation and maintenance of EVs presents challenges for Americans. In 2022, the average price of an EV was \$17,197 more than the average price of an internal combustion engine vehicle. Range anxiety, lengthy charging times, and reduced performance in extreme hot or cold weather also make EVs less attractive for American consumers. The Department of Energy noted that the median range for gasoline vehicles was 403 miles, and the median range for EVs was 234 miles, for the 2021 model year. Furthermore, electric vehicle charging speeds directly impact the everyday lives of Americans. The Department of Transportation (DOT) explained that Level 1 chargers can take 40-50 hours to charge fully a battery electric vehicle from empty and five to six hours to charge fully a plug-in hybrid electric vehicle from empty. Level 2 chargers can charge a battery electric vehicle from empty in four to 10 hours and a plug-in hybrid electric vehicle in one to two hours. Even the quickest option with Direct Current Fast Charging Technology charges a battery electric vehicle to 80% in 20 minutes to an hour.

D. END-OF-LIFE

When renewable energy technologies reach the end of their lifespan, which is estimated to be 30 to 35 years for solar panels, 20 to 25 years for wind turbines, and at least 10 years for EV batteries, proper disposal is essential for environmental protection. The International Renewable Energy Agency estimates that global solar panel waste could reach 78 million tons by 2050. The United States alone is expected to generate between 7.5 million and 10 million tons of solar waste, with the risk of additional solar panel waste with early retirements and broken panels. For wind, the Department of Energy considers landfilling to be the “most cost-effective option,” and wind turbine blade waste could amount to between 200,000 and 370,000 tons annually by 2050.

Recycling is one option for renewables at the end-of-life, but the cost and lack of scale of recycling technologies present significant obstacles. For example, the average cost to recycle one solar panel is between \$20 and \$30 but disposing of one solar panel at a landfill only costs \$1 or \$2.73. The sheer size of wind turbines makes them difficult and expensive to recycle, with the average hub height for onshore wind at 308 feet and the projected average hub height for offshore wind at 500 feet. On average, decommissioning costs \$114,000 to \$195,000 per turbine. For EVs, only 5% of lithium-ion batteries for EVs are currently recycled, compared to 99.3% of lead-acid batteries for traditional vehicles.

Disposal of solar panels and EV batteries also presents risks with the management of hazardous waste. The Environmental Protection Agency considers certain solar panel waste with high levels of lead and cadmium to be hazardous waste regulated under Subtitle C of RCRA. Similarly, lithium batteries are characterized as hazardous waste, which is regulated by the Department of Transportation’s Hazardous Materials Regulations.

IV. ISSUES

The following issues were examined at the hearing:

- The environmental, human rights, and national security risks of wind energy, solar energy, and electric vehicles on Americans based upon the scale and pace that it is being forced on Americans.
- Risks associated with the critical mineral inputs, operation and deployment of renewable energy technologies, and end-of-life disposal, particularly if rapidly required.
- The potential negative impacts of various energy technologies on American consumers, particularly if forced on them in compressed timeframes.

The full document can be found, [here](#).

The hearing video can be seen, [here](#).

UPCOMING REGULATORY COMMITTEE MEETINGS

REGULATORY COMMITTEE CO-CHAIRMAN

Will Houser, Continental Resources

Rusty Shaw, Denbury Resources

Meetings are held by teleconference at 2pm CT, and are open to anyone who would like to attend. Please email CSimonds@depausa.org to be included in call-in information. Dates are subject to change.

JUNE 15
SEPTEMBER 21
DECEMBER 21

OUR WORK IS CRITICAL.
YOUR SUPPORT IS VITAL.

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FINALLY SOME LOGIC!

FEDERAL COURT OVERTURNS BERKELEY GAS BAN

A three-judge panel of the 9th U.S. Circuit of Appeals handed down an ruling April 18 that overturned the city of Berkeley's 2019 ban on natural gas in new construction. The judges unanimously agreed with restaurant owners that Berkeley bypassed federal energy regulation when it approved an ordinance and did in fact harm restaurant owners. The panel ordered that the District Court, on remand, reinstate the City of Berkeley's state law claims.

This decision is likely to set a precedent that is likely to affect dozens of other municipalities. The Berkeley ordinance was not a building code requirement, so the appeals court ruling will only affect other municipalities that used the same type of ordinance and only in Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington state.

Almost 85 municipalities, mostly in California have adopted some form of ban on the direct use of natural gas. In total 104 U.S. Jurisdictions have approved ordinances or building codes to limit or ban natural gas use.

Jot Condie, president of the California Restaurant Association, who brought the suit said Berkeley's ban was "an overreaching measure beyond the scope of any city," he said in a statement.

"Cities and states are not equipped to regulate the energy use or energy efficiency of appliances that businesses and homeowners have chosen; energy policy and conservation is an

issue with national scope and national security implications," Condie said.

With a few exceptions the ordinance banned new residential and commercial buildings from installing natural gas piping.

In an 8-4 vote, the Boston City Council approved an ordinance at the beginning of April requiring new construction that uses heating oil or natural gas to install solar panels and additional wiring to convert to electrification.

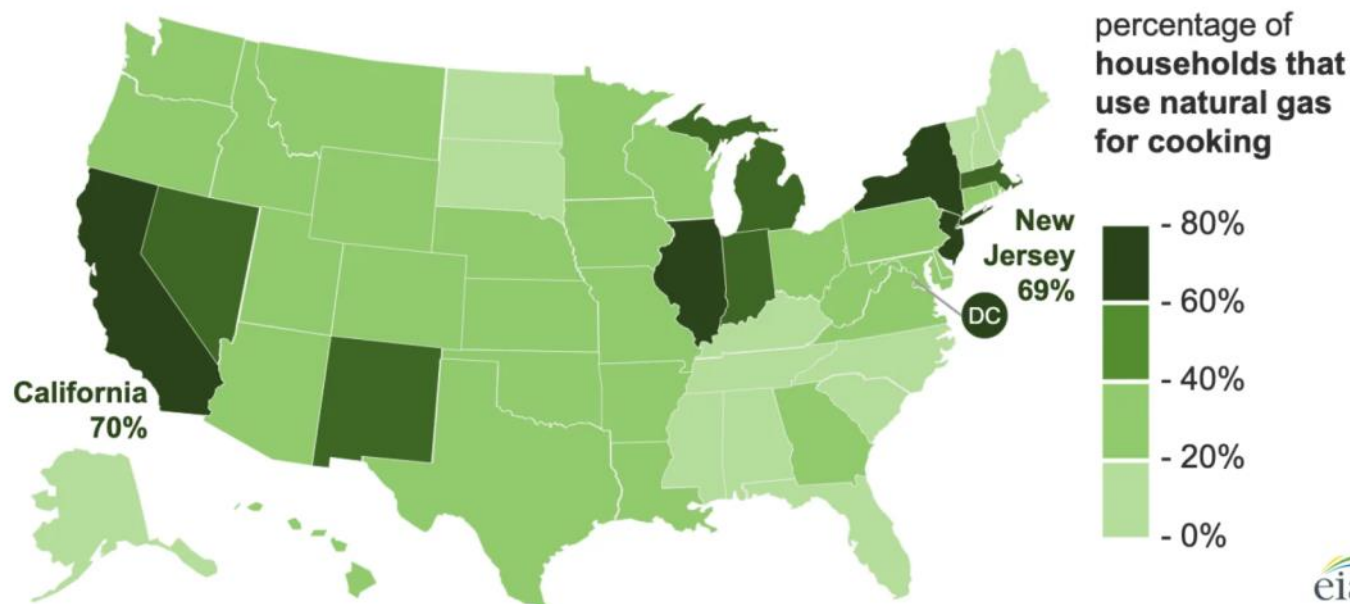
Boston Mayor Michelle Wu expressed an interest in participating in a pilot program for 10 cities which would fully prohibit the use of fossil fuels from new construction and major renovations with the exception of life science labs, and health care facilities.

New York Gov. Kathy Hochul said in her January 2023 State of the State address that New York should phase out the the fuels that warm more than 80% of homes in her state. In her plan, replacement appliances, like a furnace or a gas stove, would be required to be an electric or other non-combustion system. Additionally, she proposed a requirement that all new buildings and homes use only electricity by 2030.

“The Ninth Circuit’s ruling today underscores the importance of a consistent national energy policy, which was Congress’ intent the whole time. Cities and states should not be permitted to overrule energy decisions that affect the country as a whole. The panel’s unanimous decision that Berkeley’s ban on natural gas piping is preempted by EPCA sets an important precedent for future cases, especially with other cities considering similar bans or restrictions on the use of natural gas.”

One California chef said the gas ban was like “taking paint away from a painter and asking them to create a masterpiece.”

Households that use natural gas for cooking (2020)



Data source: U.S. Energy Information Administration, *Residential Energy Consumption Survey*

NY DECIDES TO PUSH FORWARD DESPITE WARNINGS

"We're going to be the first state in the nation to advance zero-emission new homes and buildings beginning in 2025 for small buildings, 2028 for large buildings," New York Gov. Kathy Hochul said after the April 27th meeting of state leaders reached a 2024 budget agreement which includes a future ban on natural gas hookups in new construction.

In addition to the gas ban the 2024 budget expands the NY Power Authority's control over renewable energy development and fossil fuel power shutdowns. Both the New York Power Authority and New York Independent System Operator, which oversees the NY grid has warned the rapid transition to renewable generation is threatening future grid reliability.

"While New Yorkers are struggling to make ends meet, the Democratic Socialists who are driving the agenda in Albany are fixated on another fantasy energy policy that in reality will continue to drive up costs for New York ratepayers and create more big government bureaucracy," New York Senate Republican Leader Rob Ortz said in a statement.

Overall, in 2021, about 60% of all New York households relied on natural gas for heating, over 60% used it for cooking, while another 20% used heating oil, according to the Energy Information Administration. Additionally, just 14% of households in the state were heated with electricity, the vast majority of which was generated by natural gas power plants.

The pending budget mandates all new buildings under seven stories be fully electric by 2026 and larger structures following in 2029.

The New York ban could face legal challenges over whether local and state governments can even ban natural gas hookups following reversal in Berkeley.

WHAT THEY SAID: ---

Biden-Harris Administration Announces \$177 Million for 17 New Technical Assistance Centers Across the Nation to Help Communities Access Historic Investments to Advance Environmental Justice

WHAT THEY MEANT: ---

The EPA has given at least \$10 million to 17 environmental groups, some who have publicly supported the Biden administration climate laws

Environmental Justice Thriving Communities Technical Assistance Centers

- University of Connecticut
- West Harlem Environmental Action, Inc.
- Inter-American University of Puerto Rico-Metro Campus
- National Wildlife Federation
- Deep South Center for Environmental Justice
- Research Triangle Institute
- Blacks in Green
- University of Minnesota
- New Mexico State University
- Wichita State University
- University of Arizona
- San Diego State University
- Willamette Partnership
- University of Washington
- International City/County Management Association
- Institute for Sustainable Communities
- National Indian Health Board

The EPA website says they “will deliver these resources in collaboration with the U.S. Department of Energy, whose funding allows the EJ TCTACs to provide support for identifying community opportunities for clean energy transition and financing options, including public-private partnerships supporting clean energy demonstration, deployment, workforce development and outreach opportunities that advance energy justice objectives.”



WHAT YOU MISSED ON TWITTER THIS MONTH

IF YOU DON'T PARTICIPATE



Americans for Prosperity and Darren Samuelsohn follow



Ford Fischer ✓

@FordFischer

...

VIDEO THREAD: Climate activists blocked the GW Parkway into DC on Wednesday morning during rush hour to demand President Biden declare a "climate emergency" and cancel new fossil fuel drilling.

"I have an interview today, are you serious?" yelled one angry driver, who said she's unemployed. "That's not fair! This is the wrong way to go about it!"

"So I'm supposed to be unemployed again? If I miss this interview, what's gonna happen to my family?"



American Chemistry ✓ @AmChemistry · 5h

...

The new ACC white paper highlights the importance of [#NaturalGas](#) to the American economy, the energy transition, and climate progress. [#EnergySmart](#)



americanchemistry.com

Natural Gas: Its Key Role in a Strong Economy and a Lower Emission...

As the nation strives for a strong economy, an energy transition, and a lower emissions future, we must not lose sight of the importance of ...

Our charge for 2022 was Rational. Going into 2023 DEPA will continue to seek rational decisions, while we keep **purposeful goals in mind**. Our leaders and voters need to overcome the emotional response to the inaccurate messages and keep the purpose of our industry in mind- The welfare of the US, and the world starts with energy. DEPA will bring facts and clear thinking to the table where challenges are being discussed.

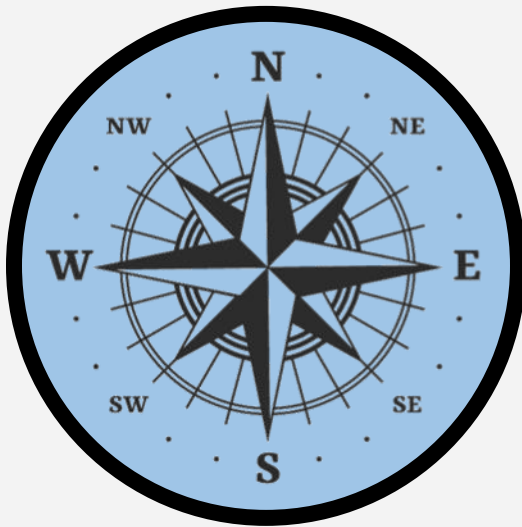
Purposeful

pur-pose-ful (adjective) /'pərpəs(ə)l/

1: Having or showing determination or resolve

2: Having a useful purpose

3: Intentional



2023

**“EFFORTS AND COURAGE ARE NOT ENOUGH
WITHOUT PURPOSE AND DIRECTION”**

- JOHN F. KENNEDY

Be assured DEPA will continue to be prepared, passionate, and persistent when it comes to representing your interests in Washington, D.C.

OUR WORK IS CRITICAL. YOUR SUPPORT IS VITAL.

We look forward to working with you.



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"I'm not convinced there is a better industry that supplies as many jobs, and as many products worldwide...when you're looking at the bottom of your shoes, or a bicycle seat, or the grips, or a steering wheel... if you sit inside an airplane and look around, everything that is in the airplane is made from fossil fuels. And I just can't imagine that anywhere in someone's mind that they believe that they could literally replace all of those products and kill an industry, over a myth."

-Judy Stark, Pres. Panhandle Producers and Royalty Owners Assoc, on the fight to protect the oil and gas industry from misinformation

Member Levels:

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- ☐ \$50,000: Executive Investor
- ☐ \$25,000: Principal Investor
- ☐ \$15,000: Partner Investor
- ☐ \$10,000: Associate Investor
- ☐ \$5,000: Affiliate Investor
- ☐ \$2,500: Colleague
- ☐ \$1,000: Advocate
- ☐ \$500: Friend of the Industry
- ☐ \$100: DEPA Supporter

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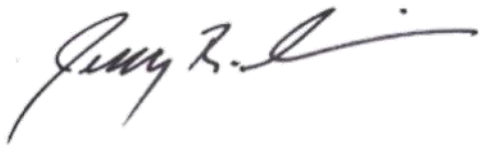
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Dear DEPA Members,

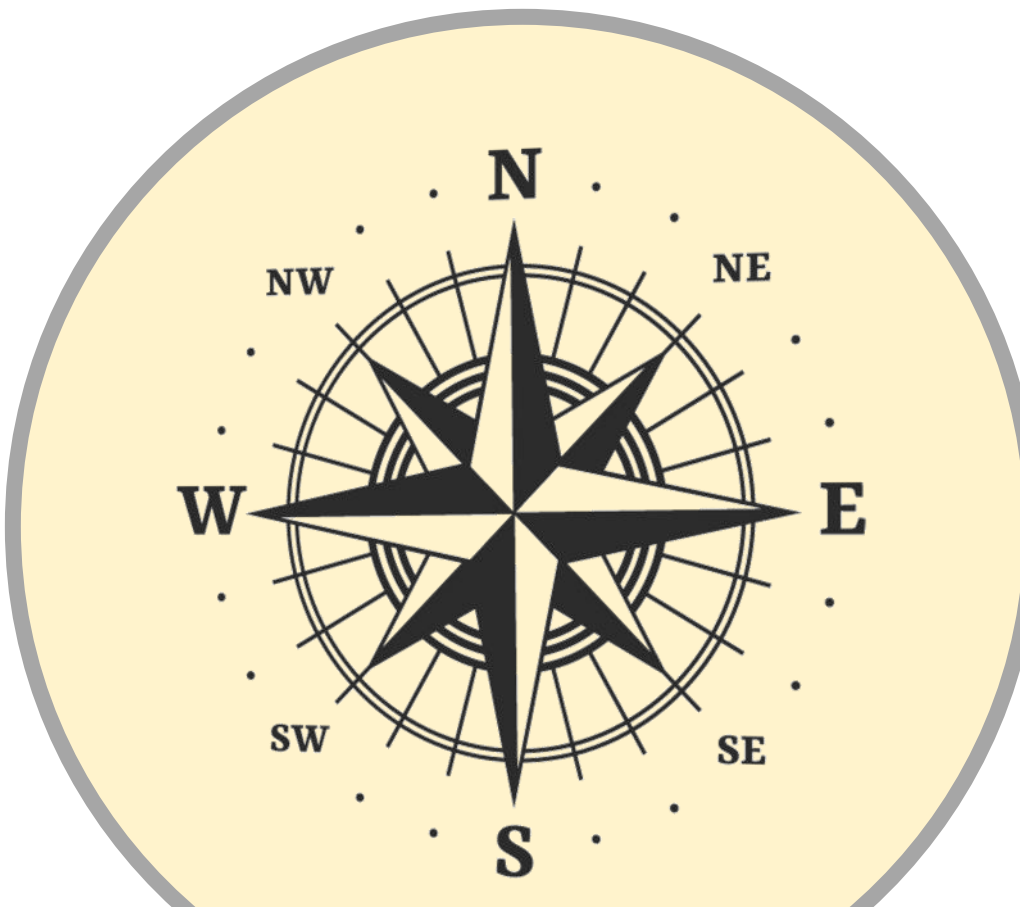
The welfare of the US, and the world starts with energy. In 2023 our mission is to be purposeful. “Efforts and courage are not enough without purpose and direction.” DEPA will continue the effort to seek rational decisions, while we keep **purposeful goals** on the forefront of our agenda. Our leaders and voters need to overcome the emotional response to the inaccurate messages and keep the purpose of our industry in mind. DEPA will bring facts and clear thinking to the table where challenges are being discussed.

Please do what you can to support our efforts by donating to our DEPA PAC. PAC donation rules are very stringent. Please follow the instructions on the donation card to make your contribution.

Thank you for all you do, and for your support of DEPA, and our mission.



Jerry Simmons
DEPA President/CEO



DEPA PAC

POLITICAL ACTION COMMITTEE



What does your contribution to DEPA do?

We believe the only way to accomplish our sharply focused agenda is to establish common ground. We consistently seek common sense solutions to the challenges that face us in business, including our relationships with the legislative and executive branches of the Federal government.

DEPA gives a loud, clear voice to the majority of individuals, and companies responsible for domestic oil and gas production. We should be unapologetic about being the driver of economic growth and security across the globe. Find out more at WWW.DEPAUSA.ORG

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