
February 4, 2019

The Honorable Lisa Murkowski
Chairman
Committee on Energy and Natural Resources
U.S. Senate
304 Dirksen Senate Building
Washington, D.C. 20510

The Honorable Joe Manchin
Ranking Member
Committee on Energy and Natural Resources
U.S. Senate
304 Dirksen Senate Building
Washington, D.C. 20510

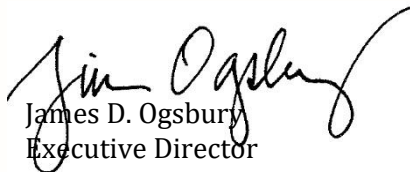
Dear Chairman Murkowski and Ranking Member Manchin:

Western Governors appreciate the Committee's examination of energy and minerals markets in its hearing tomorrow. To inform the Committee's consideration of this subject, I request that the Committee include the following attachments in the permanent record of the hearing:

- WGA Policy Resolution [2018-09](#), *National Minerals Policy*; and
- WGA Policy Resolution [2018-04](#), *Energy in the West*, and the Governors' [Energy Vision for the West](#).

Thank you for your consideration of this request.

Respectfully,



James D. Ogsbury
Executive Director

Attachments



Policy Resolution 2018-09

National Minerals Policy

A. BACKGROUND

1. Federal lands account for as much as 86 percent of the land area in certain western states. These same states account for 75 percent of our nation's metals production. Few countries are as blessed with the abundance of minerals and metals as is the United States.
2. The Mining and Minerals Policy Act of 1970 formally recognized the importance of mining and domestic minerals production as a policy of the United States, including "the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries," "the orderly and economic development of mineral resources ... to help assure satisfaction of industrial, security and environmental needs," "mining, mineral and metallurgical research," "... including the use and recycling of scrap to promote the wise and efficient use of our natural and reclaimable resources; the study and development of methods for the disposal, control and reclamation of mineral waste products, and the reclamation of mined land, so as to lessen adverse impacts of mineral extraction."
3. Access to domestic minerals is increasingly important to decrease our reliance on foreign sources. Twenty-five years ago, the United States was dependent on foreign sources for 45 nonfuel mineral materials. The U.S. imported 100 percent of the Nation's requirements for 8 of these and imported more than 50 percent of the Nation's needs for another 19. By 2014, U.S. import dependence for nonfuel mineral materials had risen significantly from 45 to 65 commodities. The United States imported 100 percent of the Nation's requirements for 19 of these, imported more than 50 percent of the Nation's needs for another 24.
4. A major factor contributing to the U.S. reliance on foreign sources of minerals is a duplicative and inefficient mine permitting system that discourages development of domestic resources. While processes have improved, it can take seven to 10 years in the United States to navigate this cumbersome federal process to bring a mine into production. The same process takes approximately two years in countries that have comparable environmental standards such as Canada and Australia.
5. Ensuring timely access to domestic minerals will strengthen our economy and keep us competitive globally as demand for minerals continues to grow, especially for manufacturing and construction. Our antiquated and duplicative permitting process discourages investment and jeopardizes the growth of downstream industries, related jobs and technological innovation that all depend on a secure and reliable mineral supply chain. Permitting delays also impede the United States' ability to meet growing demand for consumer products from smart phones and hybrid car batteries to renewable energy technologies like wind turbines and solar panels – all of which require minerals and metals in their manufacture.
6. The Mining Law has provided the framework for developing hardrock minerals on the public lands. It has been supplemented by a large body of federal, state, tribal and local

environmental and reclamation laws and regulations (including regulations promulgated by the federal land management agencies) to assure protection of the environment, wildlife and cultural resources during mineral exploration and development and to ensure reclamation of lands after active mining ceases.

The National Academy of Sciences' National Research Council, after a comprehensive review of these laws and regulations at the direction of the Congress, concluded that existing laws and regulations are "complicated but generally effective." It also identified "specific issues or 'gaps' in existing..." regulations intended to protect the environment."

7. Hardrock mining operations on both public and private lands in the western states are subject to Federal environmental laws under both the U.S. Environmental Protection Agency (EPA) and the Army Corps of Engineers. In most states, the Clean Water Act, the Clean Air Act, the Toxic Substances Control Act, the Resource Conservation and Recovery Act, and the Safe Drinking Water Act are administered by state environmental agencies with oversight by the EPA. Hardrock mining operations are also subject to regulatory programs for the protection of plants and wildlife, including the Endangered Species Act, the Migratory Bird Treaty Act, and the Bald Eagle Protection Act.
8. Furthermore, the modern hardrock mining industry is extensively regulated by the federal government on U.S. Bureau of Land Management- and U.S. Forest Service-administered lands. These regulations include review of the mining plan of operations, comprehensive permit, design, operations, closure, reclamation requirements, corrective action and financial assurance requirements, to ensure that the mining operations will not result in unnecessary or undue degradation of public lands.
9. The western states also extensively regulate hardrock mining operations on both private and public lands (state and federal), and uniformly impose permit and stringent design and operating standards, as well as financial assurances to ensure that hardrock mining operations are conducted in a manner that is protective of human health and the environment, and that, at closure, the mined lands are returned to a safe, stable condition for productive post-mining use.
10. Under the federal Mining Law, no royalties are owed to the federal or state governments for hardrock minerals extracted from federal public lands. However, such mining operations, which are most often located in rural areas lacking economic opportunities, can result in significant high-wage employment, royalties from private and state lands, increased state and local tax revenues and development of infrastructure necessary to support communities.

B. GOVERNORS' POLICY STATEMENT

1. Now is the time to build on the 1970 Mining and Minerals Policy Act with legislation and policies that will unlock our mineral potential to ensure access to the metals that are critical to U.S. economic and national security – providing vital base materials for electronics, telecommunications, satellites, aircraft, manufacturing and alternative energy technologies (particularly wind and solar).
2. Western Governors recognize that the minerals mining industry is an important component to both local and national economies. Reliable supplies of minerals and metals play a critical role in meeting our economic and national security needs.

3. WGA commends efforts by the United States Geological Survey and state geological surveys to identify potential, critical minerals deposits for alternative energy technologies and other consumer products vital to modern society.
4. The Congress, in consultation with the states, should develop a National Minerals Policy that truly enables mineral exploration and development in a manner that balances the nation's industrial and security needs with adequate protection of natural resources and the environment. Without reducing environmental or other protections afforded by current laws and regulations, any policy must address the length of the mine permitting process to ensure we can develop and provide the domestic resources that are critical to our national and economic security. Any policy should also take into account the potential long-term effects (including potential environmental effects) of mining operations and should maintain policies and procedures in place to mitigate any long-term effects.
5. A National Minerals Policy should address permitting delays, patenting, maintenance fees, an equitable government revenue mechanism, and the development of a clean-up fund and program for reclaiming abandoned hard rock mines. Relevant stakeholders, including the mining industry, should continue to work with Congress to determine the elements of a royalty system that is workable and fair.
6. New financial assurance requirements imposed upon the hardrock mining industry under CERCLA Section 108(b) would duplicate or supplant existing and proven state financial assurance regulations in this area. This is of particular concern to the western states, because CERCLA is a non-delegable federal program that provides no opportunity for implementation through state environmental agencies. The western states have developed deep experience in mine permitting, regulation, and closure. Federal preemption of state bonding programs will threaten these effective state programs.
7. The U.S. Department of the Interior and the U.S. Department of Agriculture should take an active role, working with western states, in the development of a National Minerals Policy that recognizes the importance of a domestic supply of minerals for our country.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct the WGA staff, where appropriate, to work with Congressional committees of jurisdiction and the Executive Branch to achieve the objectives of this resolution.
2. Furthermore, the Governors direct WGA staff to develop, as appropriate and timely, detailed annual work plans to advance the policy positions and goals contained in this resolution. Those work plans shall be presented to, and approved by, Western Governors prior to implementation. WGA staff shall keep the Governors informed, on a regular basis, of their progress in implementing approved annual work plans.

Western Governors enact new policy resolutions and amend existing resolutions on a bi-annual basis. Please consult www.westgov.org/policies for the most current copy of a resolution and a list of all current WGA policy resolutions.



Western Governors' Association Policy Resolution 2018-04

Energy in the West

A. BACKGROUND

1. Energy policy and the development of sustainable energy resources are major priorities for every Western Governor.
2. Western Governors recognize that approaches to energy use and development vary among our states, territories, and flag islands. However, the Governors remain committed to the development of policies and utilization of state energy endowments that result in the maximum benefit for their citizens, the region, and the nation.
3. Western energy production is indispensable to meeting national energy demands. The West is the energy breadbasket of the United States:
 - a. Western states have all high-yield geothermal energy capacity in the continental United States.
 - b. Western states supply the majority of non-federal United States petroleum.
 - c. Western states are at the forefront of unconventional natural gas production.
 - d. The Pacific Northwest produces the largest output of hydropower in the nation.
 - e. Western states have the largest contiguous areas of wind power resources in the nation.
 - f. The Southwest has some of the highest-identified solar energy resource areas in the United States.
 - g. Western states produce the largest portion of coal in the United States, which is the fuel that constitutes the largest share of the national electricity generation mix.
 - h. The West has the largest contiguous areas of high-yield biomass energy resource potential in the nation.
 - i. Western states have nuclear power generation facilities and produce all domestic uranium.
4. Western states, Pacific territories, and flag islands have the resources to drive job creation and economic development through broad growth in the energy industry.

5. The Merchant Marine Act of 1920 has prevented certain noncontiguous states, territories, and flag islands from being supplied with domestically produced energy commodities.

B. GOVERNORS' POLICY STATEMENT

1. Western Governors recognize the following as energy policy priorities for the West:
 - a. Secure the United States' energy supply and systems, and safeguard against risks to cybersecurity and physical security.
 - b. Ensure energy is clean, affordable, and reliable by providing a balanced portfolio of renewable, non-traditional, and traditional resources.
 - c. Increase energy efficiency associated with electricity, natural gas, and other energy sources and uses to enhance energy affordability and to effectively meet environmental goals.
 - d. Advance efficient environmental review, siting, and permitting processes that facilitate energy development and the improvement and construction of necessary electric grid (transmission and distribution) and pipeline infrastructure, while ensuring environmental and natural resource protection.
 - e. Improve the United States' electric grid's reliability and resiliency.
 - f. Protect western wildlife, natural resources, and the environment, including clean air and clean water, and strive to reduce greenhouse gas emissions.
 - g. Make the West a leader in energy education, technology development, research, and innovation.
 - h. Utilize an all-of-the-above approach to energy development and use in the West, while protecting the environment, wildlife, and natural resources.
2. Western Governors support increasing the development and use of energy storage, alternative transportation fuels, and alternative vehicles.
3. Western Governors call on the federal government to lift a barrier to domestic free trade between the contiguous United States and the noncontiguous states, territories and U.S. flag islands by the Merchant Marine Act of 1920 by allowing those jurisdictions to receive energy commodities produced in the mainland but transported by foreign vessels, should those jurisdictions, and the jurisdictions whose ports are being used to ship these materials, desire it.
4. Redundant federal regulation of energy development, transport, and use is not required where sufficient state, territorial, or flag island regulations exist. Existing state authority should not be replaced or impeded by Congress or federal agencies.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct WGA staff to work with Congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.
2. The Governors also direct WGA staff to consult with the Western Interstate Energy Board to recommend updates to the 10-Year Energy Vision that provide detail on the Governors' energy policy objectives outlined in this resolution.
3. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

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Energy Vision for the West

Introduction

The resource-rich West supplies a majority of the country's energy resources and electric power. The United States is currently projected to become a net energy exporter within five years. The increase in natural gas developed in the West, coupled with increased investment in renewable and alternative energy sources, have positioned the region and its Governors to play a central role in the nation's economy and energy policy.

The West's vast energy resources and the Governors' role in the development of energy policy underscores the value of a regional energy policy, the *Energy Vision for the West*. This policy does not impede states or territories from approaching energy choice and industry growth based on their own resource endowments and policies. It illustrates that Western Governors have coalesced around common issues and specific goals, despite diverse geography, resources, and politics. The *Energy Vision for the West* elaborates on the Governors' objectives set forth in WGA Policy Resolution [2018-04](#), *Energy in the West*.

Western Governors support a comprehensive energy portfolio for the West to ensure that energy is clean, affordable, and reliable. They are also committed to energy policies that promote economic growth and protect the environment. This approach facilitates a strong economy and jobs across a variety of professions, skill sets, and educations.

This approach also recognizes that there are challenges and opportunities associated with every type of energy resource and use, the costs and benefits of which must be considered in policymaking. One such opportunity – and challenge – is creating an effective state-federal partnership in energy development, lands management, and environmental protection. This regional policy is a guide for realizing opportunities to advance the West as the nation's principal energy provider and a leader in energy innovation and effective policy.

Goal 1: Secure the United States' energy supply and systems, and safeguard against risks to cybersecurity and physical security.

Addressing threats to the nation's energy systems and resources is a high priority of Western Governors. Coordination between states, the federal government, and the private sector on energy emergency planning and response is vital to addressing physical and cybersecurity impacts on the West's energy systems and resources. To this end, the Governors establish the following objectives:

- Work with the Department of Defense to meet its national security mission by ensuring safe and secure onsite and off-site electricity generation for key defense installations.
- Continue to reduce reliance on non-North American oil imports from unstable foreign sources through individualized state-by-state solutions, such as increasing North American production, improving fuel efficiency, and developing renewable and alternative fuels.

- Ensure there is sufficient domestic energy supply, including domestic renewable electric generation, to meet existing and new market demand.
- Identify security and other vulnerabilities of energy infrastructure and create programs and standards to defend infrastructure from cyber and physical attacks, as well as natural disasters.
- Encourage effective relationships between state agencies, federal agencies, public utilities, and the private sector to prevent and prepare for risks to the region's energy supply and systems, as well as to respond to and recover from disruptions.
- Partner with the federal government to ensure the provision of adequate funding and access to resources for state emergency planning, response, and recovery.
- Expand, upgrade, and secure transmission and pipeline infrastructure, as well as ensure that all federal pipeline safety measures are efficiently implemented.

Goal 2: Ensure energy is clean, affordable and reliable by providing a balanced portfolio of renewable, non-traditional and traditional resources.

Western Governors believe that a balanced energy portfolio should consist of energy sources that are clean, affordable and reliable, that maintain system reliability, and limit rapid rate increases. These resources also require the maintenance and expansion of transmission and distribution infrastructure. To this end, the Governors establish the following objectives:

- Recognize the importance of western renewable (wind, solar, biomass, biofuels, geothermal, hydropower), nuclear, coal and natural gas resources, and the generation facilities that utilize those resources.
- Adapt utility regulation to changing markets, technologies, and resources.
- Encourage the addition of renewable, low-carbon, and clean generation, including utility-scale and distributed generation.
- Promote, advance and fund the evolution of new technologies, including carbon capture and advancements in renewable energy.
- Maintain the Rural Energy for America (REAP) program, which has benefited farmers, ranchers and rural businesses that are often underserved by other federal energy efforts.

Goal 3: Increase energy efficiency associated with electricity, natural gas, and other energy sources and use to enhance energy affordability and to effectively meet environmental goals.

Eliminating waste and using resources wisely are cornerstones of a sound energy strategy. State and local governments, utilities, households, and businesses are currently realizing the economic and other benefits of energy efficiency, but there are still substantial gains to be made. To this end, the Governors establish the following objectives:

- Prioritize energy efficiency associated with electricity, natural gas, and vehicle transportation.

- Enhance utility rate designs, including time-varying rates, and cost-effective utility energy efficiency programs that deliver electricity and natural gas savings to consumers.
- Support energy efficiency programs that provide incentives and rebates to lower the incremental up-front costs of energy efficiency technologies; Energy Service Company (ESCO) programs; and where successful, utility ratepayer-funded energy efficiency programs, including the use of rate decoupling.
- Encourage the retrofit of residential and commercial buildings and improve the energy efficiency of new buildings, such as through building energy codes and programs that stimulate energy efficient construction.
- Decrease energy intensity using tools such as combined heat and power and waste heat to power systems.
- Incorporate systems strategies to improve efficiency throughout the building lifecycle and to improve grid connectivity, including energy systems that enable two-way, automated utility-to-customer communications to facilitate demand response programs.
- Maintain funding and support long-term authorization for the State Energy Program (SEP), Weatherization Assistance Program (WAP), and Low-Income Home Energy Assistance Program (LIHEAP).

Goal 4: Advance efficient environmental review, siting and permitting processes that facilitate energy development and the improvement and construction of necessary electric grid (transmission and distribution) and pipeline infrastructure, while ensuring environmental and natural resource protection.

Responsible energy development and a robust, well maintained energy delivery system are vital to the economy and quality of life in the West. To this end, the Governors establish the following objectives:

- Encourage responsible leasing and development of energy resources and infrastructure.
- Create a clear and transparent process for regulation and permitting, coordinated among well-trained and adequately funded federal, state and local agencies.
- Streamline project-permitting reviews to minimize timelines, without compromising environmental and natural resource protection or states' roles in those processes.
- Maintain state and local decision-making authority over transmission line siting and permitting.
- Encourage regional transmission planning organizations to conduct interconnection-wide planning with the full participation of the states and with consideration of state energy policies.
- Create functional partnerships among states, federal agencies, tribal governments and local jurisdictions to solve conflicts that hinder energy infrastructure and resource development.

- Increase cooperation on interstate projects through interstate compacts and other tools.
- In the West-wide energy corridor process, ask federal agencies to guarantee: ongoing, substantive, and meaningful state consultation; consideration of state plans, processes, priorities, and policies; and integration of other streamlining efforts.

Goal 5: Improve the United States electric grid’s reliability and resiliency.

Changes in energy generation, distribution, and management are transforming the nation’s electric grid. But these advancements also highlight the need for grid level investment, along with associated updates for electricity regulation and policy. To this end, the Governors establish the following objectives:

- Protect state authority to determine the type and amount of new generation facilities and the programs used to procure new generation, recognizing that each state has their own priorities and portfolios.
- Protect state authority to encourage continued operation of existing generation facilities through long-term contracts, retail utility contracting, or other incentives.
- Encourage regional reliability organizations, utilities, state agencies and public utility commissions to assess the provision of essential reliability services under future scenarios that include a changing resource mix in the West.
- Support grid operator situational awareness of distributed energy resources by promoting coordination between utilities and distributed energy resource developers.
- Preserve areas of exclusive state authority regarding distributed energy resources, including storage, and improve utility distribution systems planning for distributed energy resources to enhance grid reliability and resilience.
- Improve understanding of grid resources and services and the need for new power production facilities and transmission/distribution infrastructure through data, analysis, and coordination.
- Prepare for potential disruptions to the grid from wildfires, flooding, earthquakes, tornadoes, cyberattacks and other disturbances and emergencies, as well as increase the grid’s ability to withstand and reduce the magnitude of such events.
- Enable utilities to take necessary actions to enhance grid reliability and reduce the threat of wildfires to and from electric transmission and distribution rights-of-way.

Goal 6: Protect western wildlife, natural resources and the environment, including clean air and clean water, and strive to reduce greenhouse gas emissions.

Western states have long assumed a stewardship role for the natural environment and have worked across state lines to protect air, land, wildlife and water. Western Governors are committed to ensuring that energy development is done in an environmentally responsible manner. To this end, the Governors establish the following objectives:

- Promote energy technologies and sources that lower emissions.
- Continue advancing air and water quality improvements and plans in each state and across state lines.
- Foster environmental cooperation that: protects the state-federal partnership; provides for sustainable environmental protection; is nimble and flexible; and ensures that state governments play a key role in regulation.
- Acknowledge that a productive economy and responsible development can support environmental protection by providing additional funding and opportunities for public-private partnership.
- Encourage technologies that reduce water consumption, prioritize water consumption for traditional activities (drinking water, agriculture, habitat conservation/restoration), and contribute to the responsible development of new energy resources.
- Achieve a balance between the responsible development of energy projects and wildlife conservation.
- Urge the federal government to identify and approve solutions for the long-term storage and permanent disposal of spent nuclear fuel and nuclear waste.
- Encourage the development and deployment of a full range of technologies that offer the potential for cost-effective reductions in greenhouse gas emissions from energy production and use, including carbon capture and storage, energy efficiency, zero emissions generation sources, and other emerging options.

Goal 7: Make the West a leader in energy education, technology development, research, and innovation.

Effective energy policy is facilitated by an understanding of a common set of impartial facts and scientific evidence. Furthermore, the advancement of technology will play a critical role in realizing a clean energy future. To this end, the Governors establish the following objectives:

- Leverage the vast expertise in the West's industry, academic institutions, and national laboratories to make the region an international hub for new energy technology research and development, as well as energy education.
- Encourage Congress and the Department of Energy to support and fund research, development, demonstration, and deployment of advanced energy technologies.
- Create public-private research and development partnerships among industry, academia, the national labs, and federal agencies to identify promising new technologies, including energy efficiency technologies that advance clean energy with reduced environmental impacts.
- Encourage market operators, reliability organizations, and utilities to appropriately share electric system operational data with researchers, educators, and entrepreneurs to promote

electric system innovation and technology development, while still safeguarding against risks to cybersecurity and physical security.

- Encourage training and education in energy-related fields and ensure there is an adequate workforce operating under the highest safety standards.
- Facilitate the creation of employment opportunities for displaced energy sector workers.
- Educate the public regarding: the role of energy in maintaining a high standard of living and quality of life; trade-offs and externalities associated with all types of energy development and consumption; the coexistence of a healthy environment and a thriving economy; and how federal policy on public lands impacts energy and infrastructure development.

Goal 8: Utilize an all-of-the-above approach to energy development and use in the West, while protecting the environment, wildlife and natural resources.

A diverse energy portfolio is essential to the provision of clean, affordable, secure, and reliable energy. Western Governors support a comprehensive energy portfolio, including: oil, gas, coal, nuclear, biomass, geothermal, hydropower, solar, wind, and conservation and energy efficiency. To this end, the Governors establish the following objectives:

- Reduce costs and risks for the environmentally sound development of all energy resources.
- Ensure competition in the market for all resources.
- Recognize the growing importance of consumer choice in driving energy policy.
- Support consumer choice of distributed energy resources to achieve affordability, environmental, and other objectives.
- Increase the development and use of alternative transportation fuels and vehicles, including the necessary infrastructure for those vehicles.
- Encourage innovation and application of energy storage, including pumped hydro storage, battery storage, and compressed air energy storage where cost-effective.
- Support the responsible and efficient development and use of traditional and renewable resources.
- Increase the amount of electricity generated from new, retrofitted, or relicensed hydroelectric facilities, including small, irrigation, and flood control hydropower projects.
- Restore financing for the geothermal exploration program financed by the Department of Energy.
- Accelerate the introduction of small modular reactors into the marketplace.