
March 29, 2022

The Honorable Joe Manchin
Chairman
Committee on Energy and Natural Resources
United States Senate
304 Dirksen Senate Building
Washington, DC 20510

The Honorable John Barrasso
Ranking Member
Committee on Energy and Natural Resources
United States Senate
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Manchin and Ranking Member Barrasso:

In advance of the Committee's March 31, 2022, hearing on opportunities and challenges facing domestic critical mineral mining, processing, refining, and reprocessing, attached please find the following Western Governors' Association (WGA) policy resolutions:

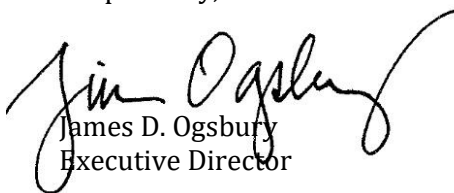
- WGA Policy Resolution 2022-01, Energy in the West; and
- WGA Policy Resolution 2018-09, National Minerals Policy.

Policy Resolution 2018-09 recognizes that the minerals mining industry is an important component to both local and national economies and commends critical minerals mapping efforts led by the United States Geological Survey and state geological surveys. Policy Resolution 2022-01 offers Governors' support for "emerging tools and technologies that address barriers to mineral supply chain reliability, including technologies that help recycle or reuse existing critical mineral resources for use in electric vehicles and other clean energy technologies."

I request that you include this document in the permanent record of the hearing, as it articulates Western Governors' policy positions and recommendations on the important domestic mining issues being considered by the Committee.

Please contact me if you have any questions or require further information. In the meantime, with warm regards and best wishes, I am

Respectfully,



James D. Ogsbury
Executive Director

Attachments



Policy Resolution 2022-01

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 and territories. However, the Governors remain committed to the development of policies and utilization of state energy endowments that result in sustainable practices that can benefit citizens, the region, the nation, and the world.
3. Electricity generation and delivery systems are undergoing rapid, significant change across the West. The increasing integration of renewable energy and distributed energy resources, electrification of vehicles and buildings, and retirement of traditional energy generating assets are all contributing to fundamental shifts in the electric sector. Several western states have accelerated these developments by enacting legislation to create targets or deadlines to further support renewable energy.
4. In addition, some energy systems face heightened threats from digital and physical sources, including wildfires, severe storms, heat waves, droughts, and other extreme weather events. Ensuring the reliability of energy generation and delivery systems despite these threats is a priority of every Western Governor.
5. Western states and communities are served by a diverse mix of electricity providers. Investor-owned utilities, public power utilities, and rural electric cooperatives all serve an invaluable role in delivering reliable, affordable power across the West. These electricity providers are characterized by differences in federal and state oversight, governance structures, capital assets, and geographic service territories.
6. The presence of federal lands affects energy projects and infrastructure deployment across the West. Planning, permitting, and siting energy generating assets and transmission and pipeline infrastructure can require close coordination between states, private developers, utilities, and one or more federal agencies. Western Governors are committed to working with federal agencies to create an effective state-federal partnership in energy development, land management, and environmental protection.
7. Western energy production is indispensable to meeting national energy demands. Because of this, the West is in a strong position to lead the development of energy systems that make the best use of land and resources and balance technical, economic, environmental and cultural considerations. The West provides a diverse range of energy resources:
 - a. Western states have the vast majority of high-yield geothermal energy capacity in the 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 and produce the majority of the nation's natural gas. Natural gas currently accounts for approximately 40 percent of the nation's electricity generation mix.
 - d. The West produces the largest output of hydropower in the nation.
 - e. Western states have the largest contiguous areas of land-based wind power resources in the nation and have over two-thirds of the nation's installed capacity. In addition, the Pacific Ocean offers some of the best offshore wind resources in U.S. waters.
 - f. The West has some of the highest-identified solar energy resource areas in the country and the majority of installed solar capacity.
 - g. Western states produce the largest portion of coal in the United States.
 - h. The West has the largest contiguous areas of high-yield biomass energy resource potential in the nation.
 - i. Western states are uniquely situated to produce low carbon intensity, clean hydrogen to facilitate greater economic development and decarbonization efforts.
 - j. Western states have conventional nuclear power generation facilities, produce all domestic uranium, and are at the forefront of advanced nuclear reactor technology development.
8. Western states are also leading the way in the development and deployment of innovative energy storage technologies. Utilities across the West have installed a range of battery technologies to improve grid function, flexibility, and resilience.
 9. Western states and Pacific territories have the resources to drive job creation and economic development through broad growth in the energy industry.
 10. The Merchant Marine Act of 1920 has prevented certain noncontiguous states and territories from being supplied with domestically produced energy commodities.

B. GOVERNORS' POLICY STATEMENT

Governors' Energy Priorities

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, equitable, and reliable by providing a balanced portfolio of 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 clean energy development and the improvement and construction of necessary energy 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 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, and reducing emissions.

Grid Modernization and Resilience

- 2. A robust, resilient, and well-maintained energy delivery system is vital to the economy and quality of life in the West. Grid infrastructure in the West faces potential disruptions due to natural disasters, particularly wildfires, as well as growing cyber threat landscape. Increased grid threats due to wildfires and extreme weather events highlight the need to use and develop energy systems that are both reliable and combat climate change. Upgrades to transmission and distribution infrastructure, including information technology systems, are needed to properly address these risk factors, as well as anticipated increased electricity demand. Coordination between electricity providers and states in energy markets can lead to cost-effective energy for ratepayers and leverage regional resources.
- 3. Transmission infrastructure in western states often crosses one or multiple federal lands jurisdictions. In these situations, close coordination between states, utilities, and federal agencies is needed to ensure that projects are planned, permitted, and sited in a timely, efficient manner. Western Governors encourage federal agencies to streamline project-permitting reviews to minimize timelines without compromising environmental and natural resource protection or states' roles in those processes.
- 4. Western Governors encourage Congress to provide federal agencies, particularly the Bureau of Land Management (BLM), the Environmental Protection Agency, the Department of Energy (DOE), the Federal Energy Regulatory Commission, U.S. Forest Service (USFS), Bureau of Ocean Energy Management, and U.S. Fish and Wildlife Service with additional support to enhance staff and resource capacity to conduct environmental review and permitting activities associated with transmission infrastructure.
- 5. Western Governors recommend federal agencies leverage designated West-wide Energy Corridors to support the effective and efficient permitting and siting of energy infrastructure assets. Where applicable, Western Governors encourage the BLM and USFS to integrate designated corridor specifications into local land use plans.

6. Western Governors believe clear, coordinated and consistent wildfire mitigation strategies including application of federal vegetation management practices is integral to maintaining the health of western forests, preventing dangerous and damaging wildfires, and maintaining grid reliability. The Governors support effective and efficient cross-jurisdictional coordination that enables vegetation management for federal transmission rights-of-way.

Innovation and Technology

7. Western Governors encourage innovation and application of energy storage, including battery, hydrogen, pumped hydropower, and compressed air technologies, where cost-effective.
8. The U.S. has the opportunity to continue global leadership in carbon capture and storage (CCUS) research and technology development, while further deploying CCUS technologies, where cost-effective, that provide financial benefits to our nation's entire value chain.
9. The President and Congress should consider federal incentives to expand cost-effective deployment of carbon dioxide (CO₂) capture at power plants and other industrial sources.
10. Federal policies aimed to limit CO₂ emissions should promote, and not impede, development and deployment of CO₂ capture and commoditization. Federal regulations should allow states to create programs tailored to individual state needs, industries and economies and consider permanent CO₂ storage that results from enhanced oil recovery in meeting federal regulatory objectives.
11. Western Governors are committed to considering advanced and small modular reactors as an energy resource.
12. Western Governors are committed to developing regional hydrogen hubs to spur economic development and add more clean energy sources to the region's resource mix.
13. The developing floating offshore wind industry presents a strong economic and sustainable energy generation opportunity for the West. Western states can work collectively, and in consultation with Tribal governments and in coordination with stakeholders, to address workforce, economic, infrastructure, social, environmental, and manufacturing challenges associated with offshore wind planning, siting, and deployment.
14. Western Governors commend 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.
15. Governors also support development of emerging tools and technologies that address barriers to mineral supply chain reliability, including technologies that help recycle or reuse existing critical mineral resources for use in electric vehicles and other clean energy technologies.
16. Western Governors are committed to leveraging 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.

17. Western Governors encourage Congress and DOE to support and fund research, development, demonstration, and deployment of advanced energy technologies.
18. Western Governors support the creation of 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.

Economic and Workforce Development

19. Western Governors and states are committed to encouraging training and education in energy-related fields and ensuring there is an adequate workforce operating under the highest safety standards.
20. Many western states and communities have been affected by localized job losses due to changes in the energy sector and the closure of coal power plants. Western Governors and states are working diligently to facilitate the creation of employment opportunities for displaced energy sector workers.
21. Western Governors offer their support for the U.S. Department of Agriculture (USDA) Rural Energy for America program, which has benefited farmers, ranchers and rural businesses that are often underserved by other federal energy efforts.
22. Western Governors support funding and long-term authorization for the State Energy Program (SEP), Weatherization Assistance Program (WAP), and Low-Income Home Energy Assistance Program (LIHEAP).
23. Western Governors support legislative measures that promote flexibility for rural electric cooperatives to refinance or adjust loans secured through the USDA Rural Utilities Service.
24. Western Governors support increasing the development and use of energy storage and low- and zero-emissions vehicles and associated infrastructure. WGA's Electric Vehicles Roadmap Initiative [Report](#) provides valuable insights on strategies to effectively integrate electric vehicle charging equipment with local grid infrastructure.
25. Western Governors call on the federal government to lift a barrier to domestic free trade between the contiguous United States and the noncontiguous states and territories 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.
26. Redundant federal regulation of energy development, transport, and use is not required where sufficient state or territorial regulations exist. Existing state authority should not be replaced or impeded by Congress or federal agencies. Where additional regulations are necessary, federal agencies should consult and coordinate with states and tribes to ensure collaboration and understanding of unique circumstances within individual states and tribal nations.

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. 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.

This resolution will expire in December 2024. Western Governors enact new policy resolutions and amend existing resolutions on a semiannual basis. Please consult <http://www.westgov.org/resolutions> for the most current copy of a resolution and a list of all current WGA policy resolutions.



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.