

Message

---

**From:** [REDACTED]@API.org [REDACTED]@API.org]  
**Sent:** 20/10/2017 20:00:07  
**To:** [REDACTED]@API.org  
**Subject:** API 50 State Report Subscription Notice

API State Legislative and Regulatory Report #37  
10/20/2017

**SPECIAL NOTICES**

In Connecticut, legislative leaders say they have agreed to a broad outline of a deal that will eliminate the state's \$3.5 billion budget deficit, but caution they must still get consent from their respective caucuses. House and Senate floor votes may occur as early as next week. Governor Malloy, excluded from negotiations, has threatened to veto the package if it doesn't meet his criteria. No income, corporate or fuel taxes are in the package based on preliminary reports. Left unsaid is how most of the deficit will be closed. It appears the bailout legislation for the Dominion Energy-owned nuclear power plants is not included in the budget deal; however, a separate vote will be taken on a bailout package for the Millstone plants.

**SHALE DEVELOPMENT**

-Prohibitions/Moratoriums

In Colorado, the City of Lafayette passed a 12-month moratorium on oil and gas development on first reading. The moratorium will likely be up for second reading the first week of November. The Council Member who voted "no" on the ordinance is strongly opposed to any oil and gas development and suggests a 12-month moratorium is not sufficient. The City has hired an attorney to revise their current regulations during this moratorium.

Pennsylvania HR 515 urging the Delaware River Basin Commission to suspend consideration of a moratorium on natural gas drilling in the Delaware River Basin was adopted by the House this week by a vote of 101-83.

-Water/Wastes

Ohio [SB 165](#) which establishes conditions and requirements for the sale of brine from certain oil and gas operations received proponent testimony in the Senate Energy & Natural Resources Committee this week. The bill would exempt such a commodity from requirements otherwise applicable to brine. Duck Creek Energy, the company behind the legislation, was the only witness to testify in support of the bill. Duck Creek created AquaSalina, a liquid deicer made with recycled brine intended to treat roadways and bridges in the winter months.

-HF Guidelines/Specifications

(Reg) The Colorado Oil and Gas Conservation Commission draft of proposed new regulations regarding flow lines will be the subject to hearings in December. The proposed rules require energy producers to pressure-test and monitor low-pressure pipelines, as is currently required for the rest of their pipeline inventory. The proposal also would require the COGCC, which regulates oil and gas producers in the state, to track and alert local governments when operators abandon pipelines.

In Colorado, on 10/16 Boulder County filed two protests against drilling and spacing unit applications with the Colorado Oil and Gas Conservation Commission.

In Florida, the release last week of the administrative [recommended order](#) overruling the Department of Environmental Protection permit denial for exploration drilling by Kanter Realty on 5 acres of its 20,000 acre holding in Broward County is finally reaching the press, and environmental and municipal resistance is growing. While the administrative judge's ruling is critical, Kanter Reality noted that they expect their interest will continue to be tested as they move forward. The Florida Petroleum Council will continue to monitor this progress closely as it will likely have impacts on hydraulic fracturing ban bills filed in the 2018 legislative session.

-Severance & Other Taxes

Pennsylvania's House advanced the latest deficit-financing proposal on 10/17, centering on measures the chamber previously rejected in a standoff with the Senate and Gov. Tom Wolf. The legislation deals with the deficit by borrowing \$1.5 billion against the state's share of a tobacco settlement, and a number of tax increases that are expected to generate up to \$140 million a year. Both Wolf and the Senate say they will look at the bill, but the governor's office is continuing to press for a severance tax on Marcellus shale drilling.

Meanwhile, Pennsylvania's House Finance Committee amended and passed HB 1401, a severance tax bill that imposes a volumetric tax of 2 cents per-Mcf of natural gas if the price is \$3 or less and increasing to 3.5 cents per Mcf if the price is greater than \$5.99. The severance tax is in addition to the local impact fee, and would go to the General Fund. This version of a severance tax is similar to the Senate's proposal that was sent to the House in July minus any regulatory reforms. The bill as amended exempts gas taken from a storage field, used by a gas leaseholder or sold by a producer for processing and manufacturing operations within 5 miles of a well from the severance tax. It also seeks to guarantee that a minimum royalty payment for shale well production would not be less than 12.5%. House leadership is not expected to block a vote on the bill and many amendments are expected. The situation remains very fluid.

#### -Royalties

Attorneys General of California and New Mexico filed a [lawsuit](#) on 10/17 against the U.S. Department of Interior for repealing a valuation rule that affected royalties from oil, gas and coal production on public and tribal lands. The lawsuit filed in U.S. District Court claims the Interior Department violated the Administrative Procedure Act by not offering reasoning for the change.

#### -Methane

New [research](#) by scientists at the Massachusetts Institute of Technology could make it easier to capture the methane gas that is currently burned off at oil wells for use as fuel or a chemical feedstock. MIT chemistry professor Yogesh Surendranath and three colleagues have found a way to use electricity to convert methane into derivatives of methanol, a liquid that can be made into automotive fuel or used as a precursor to a variety of chemical products. This new method may allow for lower-cost methane conversion at remote sites.

### FUELS

#### Biofuel

University of Georgia researchers will soon study a new source of renewable biofuels: the lesser-known crop of carinata, also known as "Ethiopian mustard." Through a \$15 million grant from the U.S. Department of Agriculture's National Institute of Food and Agriculture, an interdisciplinary public and private partnership will develop production, marketing and sustainable supply chain systems to commercialize jet fuel obtained by refining carinata oil.

### CLIMATE CHANGE

(Reg) The California Air Resources Board has released their [Final Staff Report](#) on the Proposed Update to the SB 375 Greenhouse Gas Emission Reduction Targets. The staff proposal and Final Environmental Analysis will be considered at the 11/16 CARB Board hearing. The Proposed Targets Update will be available at least 10 days prior to the public hearing.

A Minnesota District Court Judge this week is allowing protesters to use a "necessity defense" to argue, in their trial, that the threat of climate change by two Enbridge Energy oil pipelines necessitated their crimes. The defendants tried to shut 5 pipelines down that carry oil sands crude into the U.S. from Canada. The defendants said that their lawyers and legal team believe this is the first time a court permitted arguing necessity as it relates to climate change issues.

### CLEAN AIR

#### NAAQS

(Reg) In North Carolina the [Pre-hearing Draft of Clean Air Act Section 110\(l\) Noninterference Demonstration for Revisions to Rule 15A NCAC 02Q .0207, Annual Emissions Reporting](#), is available for public comment until 11/20. The Division of Air Quality is proposing to revise paragraphs (c) and (d) of the rule regarding annual emissions reporting requirements for non-Title V stationary sources with actual emissions of NOx or VOC emissions ranging from 25 up to 100 tons per year among other things. The DAQ is also proposing to identify only those counties that remain subject to the emissions statement certification requirements in the Charlotte maintenance area for the 2008 ozone NAAQS. The proposed revisions will not change any air emissions control requirements for the facilities.

## MARKETING

### Electric Vehicles

In Connecticut, environmentalists and clean energy advocates continue pushing DEEP to expand the electric vehicle (EV) market. As part of the revision to the state energy plan, the "greens" are advocating for EV rebates for low-income households and a new pricing policy that would make it cheaper to charge electric vehicles overnight. They also want the current EV rebates to continue. However, the DEEP air quality director in charge of that program said his agency has no plans to increase the size of the financial incentives for new EV buyers, and that the current rebate program is not a long-term solution, but was a jump-start for the market. Connecticut is part of a coalition of states (Connecticut, Massachusetts, Maryland, New York, Oregon, Rhode Island and Vermont) that have committed to putting a combined 3.3 million electric vehicles on the road by 2025; Connecticut's share of that is 150,000 EV's. The states signed a Memorandum of Understanding (MOU) in 2013 designed to expand the EV market.

In Georgia, Atlanta City Council Councilwoman Keisha Lance Bottoms has introduced an ordinance to require new developments to install the electrical infrastructure to support EV chargers, including electrical panel space reserved for breakers for future 40 amp service. The ordinance also requires 20% of spaces in commercial parking decks be "EV-ready." The measure would not apply to existing buildings.

## HEALTH & SAFETY

### Environmental Enforcement/Protection

Florida's Constitutional Revision Commission which is assembled every 20 years is developing recommendations for the 2018 ballot amending the Florida constitution. While rejecting the majority of public recommendations, one of the issues the Commission adopted for consideration would amend Art II, Sec 7 to give "Every person" a "right" to a "clean and healthful environment, including clean air and water, control of pollution, and the conservation and restoration of the natural, scenic, historic, and esthetic values of the environment." The provision further offers that "[a]ny person may enforce this right against any party, public or private...". The Florida Petroleum Council and other business coalition members are reaching out to CRC members to advise about the onerous consequences of this proposal.

### Storage Tanks (Aboveground and Underground)

In Georgia, Magellan Terminal Holdings LP, plans to add another storage tank in Bibb County. Magellan has filed with the Macon-Bibb County Planning & Zoning Commission applications to rezone the property, for a conditional-use permit and for a variance. The plans are to rezone 7.37 acres from a wholesale and light industrial district to a heavy industrial district to bring the property into alignment with zoning on neighboring property. Also, it would allow for the construction of an additional 100,000-barrel storage tank that is 100 feet in diameter and 60 feet high with a capacity is equal to 4.2 million gallons of fuel. The applicant is also seeking approval to allow a sixth tank to be constructed closer to residential structures than allowed under current rules. Commission staff have said "the proposed rezoning is consistent with the 2040 Future Land Use plan. The applications are on the agenda for the 10/23 Commission meeting.

Massachusetts Petroleum Council's Steve Dodge this week testified against several bills that would broaden the scope of the state's UST fund to include damages for pain and suffering, legal costs, diminished property value and property damage. The bills were first filed several years ago after a major gasoline tank leak from a station in Marlboro led to nearby residential property contamination. Unlike past years, affected residents did not testify. Dodge told legislators it was unwise to broaden the scope of the fund when, 3 months into the fiscal year, it was already \$5.5M in the red, with a projected year-end deficit of almost \$25M. Dodge also told legislators that "not one cent" of the \$80M generated each year by the 2.5 cpq UST "fee" is used for UST remediation because the proceeds are now diverted to fund transportation.

## UPSTREAM

### Offshore Access

Florida [HR 319/SR 550](#) urge Congress to extend the moratorium on offshore exploration and production in the Gulf of Mexico east of the military mission line. The bills were filed by two legislators from the Panhandle. The Florida Petroleum Council is begun reaching out to both Legislators on this issue.

In Wilmington, North Carolina, former Shell Oil Company CEO John Hofmeister debated Jean-Michael Cousteau on the merits of offshore oil and natural gas development. Approximately 1,000 attendees turned out to hear the point/counterpoint debate which was moderated by an anchor from one of the local television stations.

Also in North Carolina, the Pine Knoll Shores Board of Commissioners has joined municipal governments on the North Carolina coast in opposing offshore oil and gas drilling and seismic surveying. The Board approved 4-1 a resolution on 10/18. The approved resolution was amended from its original position to remove language regarding "profit sharing from fossil fuel drilling."

The South Carolina House Agriculture & Natural Resources Committee Ad Hoc Federal Offshore Drilling Committee will hold a hearing on 10/26 in Columbia. API SC will testify.

#### Oil & Gas Production

In New Mexico, the Sandoval County Commission postponed their vote scheduled for 10/19 on a revised oil and gas zoning ordinance. A date for future consideration has not been set.

#### PIPELINE

##### One-Call

Pennsylvania SB 242 amending the Underground Utility Line Protection Law passed the House. Among the many changes contained in the bill, facility owners will be required to maintain existing records of main lines abandoned on or after the effective date and to mark, locate or identify the main lines if possible, based upon the existing records. However they are not required to locate lines or facilities installed before the effective date of the new law unless there are existing maps which meet certain specifications. SB 242 also establishes a damage prevention committee to review reports of violations, issue warnings and determinations, submit an annual report on relevant data, and require persons to attend damage prevention educational programs. The Act expires 12/31/24; certain portions of the bill take effect immediately with the other portions in effect in 180 days.

#### ENERGY POLICY/MANAGEMENT

In Connecticut, in response to the Environmental Defense Fund report last week alleging natural gas utilities owned by Eversource (Yankee Gas) and Avangrid (Connecticut Natural Gas & Southern Connecticut Natural Gas) manipulated the market to create artificial shortages that enabled them to raise prices, the Public Utilities Regulatory Authority is opening a docket (17-10-31) and state Office of Consumer Counsel Director Elin Katz stated she would actively participate in that investigation. No public hearings or fact-finding sessions at PURA have yet been scheduled.

Massachusetts Attorney General Maura Healey is also looking into the EDF allegations which she calls "concerning" and will require "careful assessment and analysis."

A newly formed 50-50 partnership between Stamford, CT-based Castleton Commodities International and Greenwich, CT-based Atlas Holdings is planning to buy three large fossil fuel generation plants and two remote combustion turbines from Eversource Energy (formerly Northeast Utilities); all the plants are located in New Hampshire. The new joint venture, to be named Granite Shore Power, will need approval from the NH Public Utilities Commission. Of the 3 large generation facilities, one burns coal and oil, one uses oil and natural gas, and the third uses coal, oil and bio-mass. According to Eversource, the new owners must keep the plants in service for at least 18 months and honor a comprehensive employee benefits package. Castleton was formerly the Louis Dreyfus Highbridge Energy Group.

In New York, a transmission line importing hydropower from Canada has been greenlighted by the New York Independent Systems Operator (NYISO). NYISO and the state's Public Service Commission approved the project as part of a plan to help the state achieve renewable energy goals. NextEra Energy and Niagara Power Projects will partner on the line which will bring hydropower to Western New York. The line is expected to be completed by 2022 and is a separate project from a proposed high-voltage transmission line from Canada down the Hudson River into the Hudson Valley and New York City. A developer has not been selected for that \$1 billion project. The NextEra project will include construction of two transmission substations and 20 miles of transmission line to connect the substations. While the project still needs siting approvals from the PSC, the process will be eased by developers' plans to use existing right-of-ways. Ratepayers will ultimately pay for the \$181 million project, with cost allocation between regions to be determined at a later date.

South Jersey Industries has announced an agreement to acquire New Jersey-based Elizabethtown Gas and Maryland-based Elkton Gas. On completion of the transaction, scheduled for mid-2018, South Jersey Industries will be the second largest natural gas provider in New Jersey and the second largest sole natural gas utility provider in the nation.

#### Nuclear Bailouts

In Connecticut, Dominion Energy offered to meet with DEEP and PURA officials to discuss its financials---the underlying point of contention as to whether it needs a bailout or subsidy. The company said it has not released the data because of concerns over the state's Freedom-of-Information Act which could lead to the information falling into the hands of competitors or opponents. The letter was entered into [PURA docket No. 17-07-32](#). Executive Order #59 signed by Gov. Dan Malloy on 7/25 requires Dominion to turn over audited Millstone financial statements to DEEP and PURA as they prepare their report to the legislature, due 2/1/18.

## Redacted - First Amendment

In Pennsylvania, there are co-sponsorship memos circulating in both the Senate and House regarding concurrent resolutions that will be introduced in the near future on Fuel-Secure Generation Resources. The sponsors are the co-chairs of the nuclear and coal caucuses. Their memo expresses concern over the loss of nuclear and coal power plants in Pennsylvania. It also references the 9/28 U.S. DOE new proposed rule directing the FERC to ensure that fuel-secure generators are adequately compensated so that they can remain a viable component of the bulk power system. The concurrent resolutions will "urge the FERC to swiftly consider DOE's proposed Grid Resiliency Pricing Rule and implement policies and adopt tariffs to ensure fuel-secure generation resources receive proper compensation for the positive attributes they provide our nation's and Commonwealth's electric system - in this case, reliability and resiliency." The nuclear interests are aggressively lobbying the legislature to sign on as co-sponsors. Members of the *Citizens Against Nuclear Bailouts* are also working hard to discourage legislators from signing on to the resolutions. While resolutions are not binding, they do send a message that the Pennsylvania legislature supports certain policies. The coalition weighed in on the issue via [press release](#) on 10/19. The coalition will be sending a letter to all legislators on this matter as well.

#### Emergency Waivers

The Virginia Petroleum Council met with the state's Critical Infrastructure manager for the Department of Emergency Management this week to discuss setting up a petroleum infrastructure working group to streamline the state waiver request process and maximize information sharing during emergencies. The VPC provided a briefing on the petroleum supply chain and the practical importance of different types of waivers as well as the possibility of detaching certain waivers from requiring an emergency declaration in the state as a pre-requisite. The idea will be discussed among relevant state agencies.

#### INFRASTRUCTURE

##### -Pipeline

In Massachusetts, a number of bills concerning the retail sale of oil and natural gas, natural gas pipeline construction and location siting, and prohibiting ratepayer financing of new pipeline capacity have been scheduled for a public hearing on 10/26 by the joint Committee on Telecommunication, Utilities and Energy. Included among those matters are bills

prohibiting gas company contracts for electric power and electric company contracts for natural gas capacity, prohibiting new fossil fuel pipeline construction within one mile of playgrounds, schools, day-care centers, churches and areas of critical environmental concern, limiting natural gas compressor stations to industrial zoning districts and requiring all natural gas travelling by pipeline through Massachusetts to be sold or used within the state. The Massachusetts Petroleum Council will oppose the bills through oral and written testimony. The hearing is expected to be a magnet for anti-pipeline groups, who have been pushing back on any and all natural gas infrastructure projects.

The Michigan Department of Environmental Quality issued a violation notice on 10/13 to Rover Pipeline for discharging water containing petroleum into wetlands near Pinckney. The company, which is building a 713-mile gas pipeline that ends in Livingston County, has until 10/18 to issue their response. The DEQ is hoping residents can be the agency's extended eyes and ears and report anything unusual while the pipeline is constructed. To remedy the situation, the DEQ asked Rover Pipeline LLC to cease any unauthorized discharges, submit an application for the proper permit and register the water withdrawal.

In Michigan, NEXUS Gas Transmission plans to start building its natural gas pipeline this month. The Federal Energy Regulatory Commission on 10/18 gave NEXUS permission to begin construction, about a month after approving the \$2.1 billion project. NEXUS is a 36-inch diameter natural gas pipeline that will carry up to 1.5 billion cubic feet of natural gas a day from the Utica and Marcellus shales to users in Ohio, Michigan and Canada. The 255-mile pipeline will start in Columbiana County Ohio and connect to existing pipelines in Michigan. Detroit-based DTE Energy and Spectra Energy are partners in the project. FERC approved NEXUS in late August. Construction will start this month. The company expects the process to take seven to 10 months, but weather, terrain and time of year will factor into the timeline.

The New York State Department of Environmental Conservation has filed a petition in federal court to challenge a recent decision by the Federal Energy Regulatory Commission allowing a pipeline project to commence after the state had denied the project a necessary permit. The DEC denied a water quality certificate (WQC) to the 7.8-mile Millennium Valley Lateral project in late August. A month later, FERC issued a waiver of the denial, stating the DEC had failed to act on the company's request for WQC within one year of the company's initial application in the fall of 2015, as required by law. On 10/13, the DEC responded by filing a petition for rehearing with FERC saying the federal regulator erred in its waiver decision. Instead, the DEC argues, Millennium did not submit a completed WQC until late August of 2016, putting its denial of the certificate within statutory limits. The petition asks FERC to stay the declaratory order. If completed, the Valley Lateral pipeline would be used to supply the nearly completed CPV Valley plant in Orange County with natural gas. CPV officials have said the plant, which will be needed to provide energy to the region after Indian Power Plant's closure in 2021, could burn oil if natural gas is not supplied. Earlier this month, developers of the Constitution pipeline project, which was also denied a WQC by the DEC, appealed to FERC for a waiver.

New York's Public Service Commission has unanimously approved a proposal to review abandoned and in-use natural gas gathering lines in an effort to improve safety. The PSC says gathering lines, which are sections of pipe from natural gas wells, may have been abandoned along with unprofitable wells before current laws requiring odorization of gas to ease leak detection. In order to establish where gathering lines are, the Department of Public Service will collect data from line operators and distributors and report back to the PSC within 6 months. The order to review gathering lines will be available at

<http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=17-G-0424&submit=Search>.

(Reg) The North Carolina Department of Environmental Quality has opened the public comment process for the Atlantic Coast Pipeline Compressor Station Air Quality Permit #10466R00 for the Northampton Compressor Station Facility. The comment period ends 11/20; a public hearing will take place on 11/15 in Garysburg.

The Ohio Supreme Court on 10/19 upheld a Board of Elections decision that would allow Bowling Green voters to decide on whether to amend a city charter which asserts the community's right to a healthy climate and bans pipelines as a violation of that right. The measure is slated to be on the ballot 11/7 in Bowling Green.

In Pennsylvania, Sen. Andy Dinniman held a press conference on 10/17 to announce a bipartisan package of legislation aimed to improve safety along pipeline routes. The bills look to address issues such as pipeline safety, siting of pipelines and impact fees for pipelines. API-Pennsylvania continues to promote pipeline safety and natural gas benefits messages via social media.

(Reg) The Federal Energy Regulatory Commission issued certificates for both the Atlantic Coast Pipeline and the Mountain Valley Pipeline on 10/13. The MVP is undergoing additional review of site specific erosion and sediment control specifications. Both projects must still receive their 401 water quality certifications, which will be considered before Virginia's State Water Control Board in December: the Mountain Valley Pipeline will be considered 12/6 and 12/7; the Atlantic Coast Pipeline will be considered on 12/11 and 12/12.

-Solar

An article in PV Magazine indicates Florida is the leading state in the nation in solar growth, with a 110% increase in new residential and commercial rooftop solar permits approved last year over the previous year. The utilities also continue to announce multiple utility scale solar projects planned for the next 5 years.

In North Carolina, at least 3 counties in the eastern part of the state want to end local property tax breaks for solar farms that could stunt the industry's rapid expansion in the region. Last month, Currituck County passed a resolution -- and was joined by Pasquotank and Chowan counties last week -- calling on state lawmakers to end the 80% property tax discount on solar projects. State Sen. Bill Cook, R-Beaufort, plans to submit a bill in next year's session that would remove the local incentives by gradually phasing them out over 4 years.

#### KEY ISSUES

##### Elections

North Carolina lawmakers reconvened this week and overrode the Governor's veto of SB 656. SB 656 makes significant changes to state elections law.

##### TAXATION

Arkansas Gov. Asa Hutchinson this week said he would "vigorously oppose" any highway funding measure going before voters next year that calls for tapping into general revenue, because it would threaten other budget needs. Some have suggested moving the sales taxes collected on new and used cars, batteries, tires, etc. from general revenue over to highways. The state highway commission has not endorsed a specific proposal, but a combination tax increase and diversion of auto-related tax revenue to highways was under serious consideration.

-0-0-0-