Erich Pica, president of Friends of the Earth, said the Ways and Means bill was "fundamentally at odds with the president's commitment to repeal fossil fuel subsidies."

"If Chairman Neal and Speaker Pelosi will not rise to the challenge of amending this bill, we are counting on Chairman Wyden and Leader Schumer to continue the fight where the House has surrendered," Pica said in a statement.

A spokesperson for Ways and Means did not immediately return a request for comment.

Energy security risks

Seven House Democrats from oil-producing states urged House leadership to not repeal industry tax benefits, arguing it increases energy costs, strengthens US adversaries, and impedes the transition to lower-carbon fuels.

"US production of oil and natural gas is among the most environmentally conscious in the world when it comes to carbon-intensity and curtailing methane emissions," the lawmakers said in a Sept. 13 letter.

"Likewise, US refining companies are making significant investments in lower carbon fuels, carbon capture, and other technologies to reduce emissions. Limiting capital for these industries will impede their ability to continue investing in the technologies needed to meet the growing demand for energy while reducing emissions."

The Independent Petroleum Association of America has argued that eliminating the tax provisions imperils future energy security and will return the US to reliance on foreign energy supplies.

The Biden administration wants to repeal the pass-through exemption from corporate income tax for partnerships that derive at least 90% of gross income from natural resources, the use of percentage depletion for oil and gas wells, the expensing of intangible drilling costs, capital gains treatment for royalties, an enhanced oil recovery credit, a $3.90/b credit for marginal oil wells, expensing of exploration-and-development costs, and other tax incentives.

The Senate Finance Committee has already taken aim at fossil fuel tax preferences in the Clean Energy for America Act, which moved out of committee May 26.

— Meghan Gordon and Maya Weber, with Karin Rives, S&P Global Market Intelligence

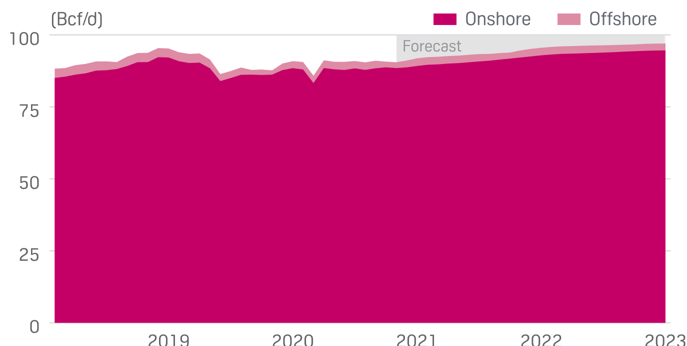
US operators continue to maintain capital discipline as gas prices maintain strength

- **Production failing to reach back to 92 Bcf/d**
- **Northeast unlikely to grow further**

With large, public operators continuing to maintain discipline despite elevated oil and gas prices, US-level production will struggle to break 92 Bcf/d until producers "loosen the purse strings," a senior marketing analyst at ConocoPhillips said Sept. 13.

"With prices so high you would think to see the Marcellus rocking and rolling," said Matt Henderson, senior marketing analyst at ConocoPhillips, during the webcast LDC Midcon Forum in Chicago. "Even the Haynesville has been kind of flattish this year. That's been a big surprise. Production has struggled over the past five or six months to get over 92 Bcf/d. I think that is setting up the $5 gas we are seeing right now."

US PRODUCTION TO BREAK 92 BCF/D AGAIN IN 2022



Source: S&P Global Platts Analytics

Total US production first averaged 92 Bcf/d in Aug. 2019, according to data by S&P Global Platts Analytics. It maintained an average above 92 Bcf/d until April 2020 when the coronavirus pandemic began disrupting markets. It is not forecast to crack the 92 Bcf/d threshold until Jan. 2022.

"We are entering into a more balanced market," he added. "As long as producers continue on this restrained approach, we will see higher prices … We should average around $3 gas for the next three years.

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But there will be volatility."

"The price rally for both crude and gas is stronger this time than recoveries in the past," Henderson said. "But the difference is we're not seeing a production response this time. The producer discipline remains."

The active rig count across US shale plays has rebounded some over the past year. After dropping as low as 282 in Aug. 2020, active rigs averaged 629 for the week of Sept. 9, according to data by Enverus. Operators averaged more than 800 rigs in March 2020.

"It's private operators adding these rigs," Henderson said. "They were responsible for about 30% of rigs before last spring. Now, they represents about 50% of the rigs in the US."

Henderson said new wells brought on by private operators tend to have lower initial rates of production than their public counterparts. There is typically about a 30% difference for IP rates in Permian wells between private and non-private operators. That occurs primarily because most private companies are typically located outside of the core acreage as public companies have amassed large swaths of contiguous core holdings through acquisitions and trades.

"Eventually we will have to see operators add more rigs or else completion crews will have to leave the field," Henderson said. "We only have about 46 months left of DUCs. We will run out of inventory."

Early in 2021, completions were outpacing drilled wells by a considerable margin, but as the year has advanced, drilled wells have begun to exceed completions. This year has seen a net decline to the drilled but uncompleted well inventory, but only slightly due to the recent gains. Across the US, there are over 4,800 DUC wells currently available to operators, and half of those are within the Permian, according to Platts Analytics.

Henderson said the most likely places to see any significant growth in the next few years are the Permian and the Haynesville. Although the US Northeast led in new production growth for the past several years, that region is likely maxed out.

"The Northeast has been responsible for a lot of the growth in recent years," Henderson said. "That will not be the case anymore. It's not going to be easy to build any new pipes in the area.

The Permian is sitting in a unique position," he said. "For a few years it was constrained. For the first time it is unconstrained. There is plenty of room to grow on both the gas and crude sides."

— *Brandon Evans*

White House to put forward three nominations, helping to fill CFTC vacancies

- **Formally unveils plans to make Behnam permanent chairman**
- **Commission faced period ahead with two members**

The White House Sept. 13 announced plans to nominate three commissioners to the five-member US Commodity Futures Tradition Commission, potentially helping to avoid a long period of dwindling numbers on the five-member commission, which regulates commodity derivatives.

With the planned departure of Democrat Dan Berkovitz in mid-October, the regulator risked having only two members, with Biden not yet having put forward nominations to replace two Republicans who stepped down previously this year — former Chairman Heath Tarbert and, more recently, Republican Commissioner Brian Quintenz.

The agency, which plays an important role overseeing energy sector derivates, currently has two Democrats and one Republican.

Biden Sept. 13 announced the intent to nominate two new commissioners, Kristin Johnson and Christy Goldsmith Romero. As expected, he also announced his intent to nominate the acting chairman, Rostin Behnam, to be the permanent chairman.

Two new names

Johnson, a professor at Emory University School of Law, works on financial market risk management law and policy "with specialization in the regulation of complex financial products," the White House said.

Her background also includes work in a private sector law practice and a clerkship with Judge Joseph Greenaway of the District Court of New Jersey.

Goldsmith Romero is a special inspector general at the Troubled Asset Relief Program, leading investigations into federal programs responding to the financial crisis, the White House said. Former President Barack Obama nominated her for that post. She also has been an adjunct professor of law, has worked in the private sector, and served as an attorney at the Securities and Exchange Commission.

Both John and Goldsmith Romero are Democrats.

In announcing plans to nominate Behnam to permanent chair, the White House emphasized Behnam's efforts to foster public and private partnerships, to prioritize consumer safeguards, as well as his efforts to address climate-related financial market risk. Behnam, a Democrat, first joined the commission in 2017 and gained attention for helping launch a major report by a stakeholder group examining climate-related risk that backed an economy-wide price on carbon. Under his leadership, the CFTC has created a new climate risk unit within the agency to focus on the role of derivatives in addressing climate risk and transitioning to a low-carbon economy.

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