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# Five Things Congress and the President Are Doing to Bring Back Sky-High Gas Prices

*Ben Lieberman*

Gasoline prices are up since the start of the year, but the summer of 2009 has thus far been a bargain at the pump compared to a year ago when prices exceeded $4 a gallon. However, the respite from sky-high prices is likely temporary.

A return to $4 a gallon gas—or higher—will be made even more certain if Congress and the President succeed in enacting a host of proposals to crack down on domestic energy supplies. Instead, the federal government should support several pending pro-domestic energy measures that would help meet the nation's growing demand in the years ahead.

**Proposals That Would Raise Gasoline Prices:**

*1. Pump price–boosting global warming legislation.* The American Clean Energy and Security Act of 2009 (H.R. 2454, commonly known as Waxman–Markey after its two main sponsors) seeks to limit how much gasoline and other fossil fuels Americans can use. The aim is to cut America's emissions of carbon dioxide from energy use, which proponents of the bill claim is warming the planet to dangerous levels. As with electricity rates, gasoline prices would have to rise high enough so the public would be forced to use less and meet the bill's ever-tightening energy rationing targets. It is literally a deliberate effort by the U.S. government to make gasoline less affordable.

According to a Heritage Foundation analysis,[1] the bill would boost the price at the pump by 20 cents per gallon when the provisions first take effect in 2012. The targets get tougher each year, and by 2035 the increase would be an inflation-adjusted $1.38 per gallon—and that is on top of any other price increases that might occur.

*2. Regulation of hydraulic fracturing.* Bills have been introduced authorizing the Environmental Protection Agency (EPA) to regulate hydraulic fracturing under the Safe Drinking Water Act.[2] This could greatly reduce future onshore drilling for oil (and even more so for natural gas), thus lowering domestic supplies and adversely impacting gasoline prices.[3]

Hydraulic fracturing is a process by which pressurized water and other substances are injected into wells to facilitate the flow of oil and natural gas. It has been widely used for decades and is necessary for the majority of new wells in the U.S. It is currently regulated at the state level, and its environmental and public safety track record is nearly spotless.[4]

Nonetheless, proposed legislation seeks new federal regulation by the EPA based on concerns about contamination of drinking water supplies, even though such water contamination has never occurred and is highly unlikely.

*3. Increased red tape and costs on domestic drilling.* A draft bill from the House Natural Resources

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214 Massachusetts Avenue, NE
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(202) 546-4400 • heritage.org

Committee seeks to discourage domestic oil production by adding a host of new regulatory requirements on top of those already in place.[5] The result would be more paperwork, delays, and litigation, but lower domestic supplies of oil.

The bill also creates new regional councils (above and beyond the many existing opportunities for state and local participation) with control over offshore oil and gas leasing. Though couched in terms of allowing public input, these councils would be susceptible to dominance by anti-energy activists not in step with the pro-domestic energy sentiment of the American people.

The proposal would restore unnecessary and redundant environmental reviews that had been eliminated by the Energy Policy Act of 2005. This policy change has proven very helpful for new domestic energy production since 2005, and its reversal would be a serious blow to future oil and natural gas drilling.

The bill also raises many fees on oil production in areas with existing leases. These increases would be particularly burdensome for the smaller energy companies that account for most of the domestic oil and gas activity. In some cases, these provisions would be enough to make oil leases too costly to pursue. While discouraging existing oil activities, the bill does nothing to open up currently off-limits areas to new production.

*4. Raising energy taxes.* Although President Obama has spoken frequently about the need to reduce imports of oil, his first budget proposed a host of punitive taxes aimed at domestic oil and natural gas production. For example, the budget eliminates several deductions against income for energy producers, most notably the manufacturer's deduction under the American Jobs Creation Act of 2004. Under the budget proposal, this deduction, which applies to all domestic industries, would specifically exclude domestic exploration and production of oil and natural gas.

Overall, the budget uses the domestic oil and natural gas industry as a source of $31 billion over 10 years in additional revenues. It should be noted that this industry already faces effective tax rates that are higher than the manufacturing sector as a whole.[6]

These energy tax hikes, which of course do not apply to foreign sources of oil, also put domestic production at a comparative disadvantage. For example, the 1980 windfall profits tax on oil companies (an excise tax that kicks in when the price of oil exceeds a certain amount) was found by the Congressional Research Service to have "reduced domestic oil production from between 3 and 6 percent, and increased oil imports from between 8 and 16 percent."[7] The newly proposed tax changes would have the same effect.

*5. Administrative delays on drilling.* Last year, in the wake of public outrage over $4 gas, Presi-

1. David W. Kreutzer *et al.*, "The Economic Consequences of Waxman–Markey: An Analysis of the American Clean Energy and Security Act of 2009," Heritage Foundation *Center for Data Analysis Report* No. CDA09-04, August 5, 2009, at *http://www.heritage.org/Research/EnergyandEnvironment/cda0904.cfm.*
2. The Fracturing Responsibility and Awareness of Chemicals Act of 2009, H.R. 2766, 111th Congress, 1st Sess.; the Fracturing Responsibility and Awareness of Chemicals Act of 2009, S. 1215, 111th Congress, 1st Sess.
3. Global Insight, *Measuring the Economic and Energy Impacts of Proposals to Regulate Hydraulic Fracturing*, 2009, at *http://www.oilandgasbmps.org/docs/GEN130-IHS_GI_Hydraulic_Fracturing_Task1.pdf* (August 13, 2009).
4. Scott Kell, "Statement on Behalf of the Ground Water Protection Council," testimony before the Subcommittee on Energy and Mineral Resources, Committee on Natural Resources, U.S. House of Representatives, June 4, 2009, at *http://www.gwpc.org/e-library/documents/general/Kell%20House%20Testimony%206-4-2009.pdf* (August 12, 2009); U.S. Department of Energy, *State Oil and Natural Gas Regulations Designed to Protect Water Resources*, May 2009, at *http://ipams.org/wordpress/wp-content/uploads/WaterProtection.pdf* (August 12, 2009).
5. The Consolidated Land, Energy, and Aquatic Resources Act of 2009, 111th Congress, 1st Sess.
6. Department of Energy, Energy Information Administration, "Performance Profiles of Major Energy Producers 2007," table 1, at *http://www.eia.doe.gov/emeu/perfpro/tab01.html* (August 12, 2009).
7. Salvatore Lazarri, "The Windfall Profit Tax On Crude Oil: Overview of the Issues," Congressional Research Service, Sept. 12, 1990, Summary.

dent Bush and Congress repealed the restrictions on leasing in 85 percent of America's territorial waters. However, Secretary of the Interior Ken Salazar has already reversed the pro-energy momentum from last year, stalling on opening any new areas to leasing and even cancelling some existing leases. He has also blocked the leasing program for oil shale, a promising source of oil trapped in massive deposits of rock under parts of Colorado, Utah, and Wyoming. If progress can be made on technologies to efficiently extract the oil from the rock, oil shale could single-handedly supply America's oil needs for many decades and possibly a century or more.[8]

**What to Do Instead.** Instead of clamping down on domestic energy supplies, American energy policy should embrace these ideas:

- Expand offshore and onshore oil production into previously restricted areas, including Alaska's Arctic National Wildlife Refuge, where an estimated 10 billion barrels of oil—16 years of current imports from Saudi Arabia—lie beneath a few thousand acres that can be accessed with minimal environmental impact;
- Reduce the regulatory and legal delays that can slow and sometimes stop production;
- Allow further progress on oil shale; and
- Prevent costly new anti-energy regulations from being imposed in the name of addressing global warming.

These principles are contained in bills such as the American Energy Innovation Act (H.R. 2828), the No Cost Stimulus Act (S. 570 and H.R. 1431), and the American Energy Act (H.R. 2846).

**Smart Energy Policy Should Be Obvious.** It should be obvious, but in Washington it is often not: Discouraging domestic oil supplies with access restrictions, regulations, fees, and taxes will add to the future price at the pump, while streamlining these impediments to increased production will do the opposite. Congress and the President should be enacting measures that allow oil and gasoline to be as plentiful and affordable as possible to meet the nation's energy needs. Instead, they are doing the opposite.

*—Ben Lieberman is Senior Policy Analyst in Energy and the Environment in the Thomas A. Roe Institute for Economic Policy Studies at The Heritage Foundation.*

8. Congressional Research Service, "Oil Shale: History, Incentives, and Policy," April 13, 2006, pp. 1–2, at *http://www.fas.org/sgp/crs/misc/RL33359.pdf* (August 12, 2009).