

BACKGROUND

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Six Easy Energy Reforms for Congress to Take Up

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Abstract

Congress has opportunities for bipartisan reform to implement free-market energy policies that would increase economic growth and remove favoritism in the energy sector. While U.S. energy policy needs many reforms, these six recommendations are low-hanging fruit that would help to eliminate special treatment and increase opportunity for growth and innovation in energy markets.

With a new Congress set to take office in January, policymakers will be eager to prove that they can move good policy forward. In energy policy, plenty of bipartisan opportunities exist for Congress to implement free-market reforms to remove government interference and create opportunities.

Six Reforms

While certainly not all-encompassing, the following six energy policies, which have enjoyed broad bipartisan support, would drive energy production, job creation, and economic growth:

1. Approve the Keystone XL Pipeline. The proposed 1,660-mile Keystone XL Pipeline would deliver up to 830,000 barrels of oil per day from Canada to the Gulf Coast, where U.S. refineries are already equipped to handle heavier crudes. The pipeline would efficiently provide supply from a secure source and a friendly and important trading partner and create thousands of construction jobs. America already has more than 500,000 miles of crude oil, petroleum, and natural gas pipelines and another 2 million miles of natural gas distribution pipelines. Furthermore, pipe-

KEY POINTS

- The new Congress has an opportunity to enact six bipartisan policies that will drive energy production, job creation, and economic growth.
- Approving the Keystone XL Pipeline would create thousands of construction jobs and deliver up to 830,000 barrels of oil from Canada.
- Ensuring the licensing of the Yucca Mountain nuclear waste repository would move the nation closer to a long-term solution.
- Extending master limited partnerships to renewable energy production would open new opportunities without stimulus spending or government subsidies.
- Removing limitations on energy exports would create jobs, stimulate the economy, and dilute the power of cartels.
- Repealing the Renewable Fuel Standard would end an unworkable environmental policy that has driven up food prices.
- Reforming the Department of Energy laboratories would encourage innovation and entrepreneurship in energy technology.

This paper, in its entirety, can be found at <http://report.heritage.org/bg2981>

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lines are the safest mode of transporting oil and gas in terms of accidents, injuries, and fatalities.¹ TransCanada has been waiting for approval for more than six years, despite the State Department having conducted multiple environmental reviews concluding that Keystone XL poses minimal environmental risk to soil, wetlands, water resources, vegetation, fish, and wildlife and that the impact on climate change would be minimal.²

It is hard to point to an issue before Congress with more bipartisan support than permit approval for the Keystone XL Pipeline. Strong bipartisan majorities in the House have voted seven times to approve the pipeline, and both the House and Senate passed a measure to approve the pipeline in December 2011 before the President denied the permit for political reasons. Many Senators on both sides of the aisle have written letters to President Barack Obama urging him to approve the pipeline permit, including every Senate Republican and 11 Democrats in the 113th Congress.³ As the letter from Senate Democrats explained, “This process has been exhaustive in its time, breadth, and scope [and] has already taken longer than anyone can reasonably justify.”⁴

2. Ensure funding for the licensing of the Yucca Mountain repository. After six years, several court cases, and the urging of Members of Congress from both parties, the Nuclear Regulatory

Commission (NRC) finally released Volume 3 of its Safety Evaluation Report. The report concluded that long-term storage of nuclear waste is both technically feasible and safe after the closure of the proposed Yucca Mountain repository site. The U.S. Department of Energy (DOE) originally applied to the NRC for a license to operate a deep geologic repository at Yucca Mountain because it “brings together the location, natural barriers, and design elements most likely to protect the health and safety of the public.”⁵ However, since 2010, the Obama Administration has worked around Congress to stop Yucca Mountain and divert resources to its own shortsighted interim storage plan.

Congressional support dates back to when Congress first selected Yucca Mountain as the location for a national repository in 1987, which Congress overwhelmingly reaffirmed in 2002. From the start, many Members of Congress in both parties opposed President Obama’s efforts to unilaterally stop Yucca Mountain.⁶ Most recently, the House repeatedly rejected amendments to spending bills that would deny funding for Yucca Mountain, amassing over 320 votes each time.⁷

The NRC’s conclusions put to rest any questions over Yucca Mountain’s long-term safety and technical feasibility, and it allows the nation to operate under the same agreed-upon facts about the project. The nation needs a permanent nucle-

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1. Diana Furchtgott-Roth, “Pipelines Are Safest for Transportation of Oil and Gas,” Manhattan Institute *Issue Brief* No. 23, June 2013, http://www.manhattan-institute.org/html/ib_23.htm (accessed November 13, 2014).
 2. U.S. Department of State, Bureau of Oceans and International Environmental and Scientific Affairs, “Final Supplemental Environmental Impact Statement for the Keystone XL Project: Executive Summary,” January 2014, <http://keystonepipeline-xl.state.gov/documents/organization/221135.pdf> (accessed November 13, 2014).
 3. John Hoeven et al., letter to President Barack Obama, September 18, 2014, http://www.energy.senate.gov/public/index.cfm/files/serve?File_id=8a078f86-4f2c-47d7-95ea-b54d08a52cdc (accessed November 6, 2014), and Heidi Heitkamp et al., letter to President Barack Obama, April 10, 2014, http://www.heitkamp.senate.gov/public/_cache/files/99761437-79d3-4295-bf89-48ed3a07f563/4.10.14-kxl.potusltr-signed.pdf (accessed November 6, 2014).
 4. Heitkamp et al., letter to President Barack Obama.
 5. U.S. Department of Energy, “Recommendation by the Secretary of Energy Regarding the Suitability of the Yucca Mountain Site for a Repository Under the Nuclear Waste Policy Act of 1982,” February 2002, p. 6, http://energy.gov/sites/prod/files/edg/media/Secretary_s_Recommendation_Report.pdf (accessed November 6, 2014).
 6. Patty Murray et al., letter to U.S. Secretary of Energy Stephen Chu, July 6, 2010, http://www.murray.senate.gov/public/_cache/files/f849572d-f3eb-44f2-931d-3a0129eb32d5/yucca-letter.pdf (accessed November 6, 2014).
 7. GovTrack, “H.Amdt. 1010 (Titus) to H.R. 4923: Amendment Sought to Strike Section 506 Which Relates to the Yucca Mountain Geologic Repository,” July 10, 2014, <https://www.govtrack.us/congress/votes/113-2014/h386> (accessed November 6, 2014), and H.AMDT.265, 113th Cong., 2nd Sess., <http://thomas.loc.gov/cgi-bin/bdquery/z?d113:hz265>: (accessed November 6, 2014).
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ar materials repository such as the Yucca Mountain facility, for which taxpayers and electricity ratepayers have already been paying. Congress should stay the course and see that the repository's licensing review is finished by the NRC.

3. Extend master limited partnerships (MLP) to renewable energy production. Under an MLP, businesses have the tax structure of a partnership or a limited liability company, but ownership equity trades publicly on a securities exchange. The partnership structure allows the business owners to pay taxes on their individual tax returns while providing the flexibility and opportunity to raise capital from smaller investors directly from the stock market. In the energy sector, the ability to form MLPs is available for mineral extraction, natural gas, oil, pipelines, geothermal, and the transportation and storage of ethanol, biodiesel, and other alternative fuels.⁸ Other renewable energy generation does not qualify. Several bipartisan bills in the House and Senate would offer renewable companies the access to capital that MLPs could provide. Both Democrat and Republican legislators have looked to MLP reform as a truly market-driven way to “level the playing field” for renewable energy companies without stimulus spending or government subsidies. Congress should allow all energy project investors to form MLPs, but energy efficiency projects should not qualify.

4. Remove limitations on energy exports. Dramatic increases in domestic oil and natural gas production over the past several years have produced tremendous economic benefits for Americans. However, the federal government restricts opportunities by limiting the ability to export crude oil and natural gas. Crude oil exports have been banned since the 1970s except in rare circumstances. For liquid natural gas (LNG)

exports, companies must first obtain approval from both the Federal Energy Regulatory Commission and the DOE. A facility is automatically authorized if the recipient country is one of the few with a free trade agreement with the U.S. In the absence of such an agreement, the DOE can arbitrarily deny a permit if it believes the volume of natural gas exports is not in the public's interest. The decision to export natural gas should be a business decision, not a political one.⁹

The oil and gas boom and Russia's annexation of Crimea in eastern Ukraine brought to the forefront the opportunity America has to dilute Russia's influence on European energy prices. It also increased bipartisan support for liberalizing export restrictions. Democratic senators from traditionally blue states such as Oregon, Louisiana, and Maryland have emphasized the economic growth that increased LNG exports would provide, and the House passed a bill this summer with support from both parties to expedite DOE review once environmental studies of a project are complete. Similarly, there has been bipartisan support to liberalize crude oil exports. Authorizing one of the few exceptions to the ban with exports out of the Alaska North Slope, President Clinton said, “Permitting this oil to move freely in international commerce will contribute to economic growth, reduce dependence on imported oil, and create new jobs for American workers.”¹⁰ Oil from other parts of the U.S. should be no different.¹¹

Congress should treat energy like any other regularly traded good or service and end both the crude oil export ban and the DOE's role in the decision-making process for LNG exports. Americans would benefit from a more efficient global oil market through lower prices, increased economic activity, and more open energy markets. Fewer restrictions on energy markets would foster inno-

8. 26 U.S. Code § 7704.

9. Nicolas D. Loris, “U.S. Natural Gas Exports: Lift Restrictions and Empower the States,” Heritage Foundation *Backgrounder* No 2767, February 11, 2013, <http://www.heritage.org/research/reports/2013/02/us-natural-gas-exports-lift-restrictions-and-empower-the-states>.

10. U.S. Senate, Committee on Energy and Natural Resources, “Sen. Murkowski Applauds First Alaska Crude Oil Exports in 10 Years,” September 29, 2014, <http://www.energy.senate.gov/public/index.cfm/2014/9/sen-murkowski-applauds-first-alaska-crude-oil-exports-in-10-years> (accessed November 6, 2014).

11. Nicolas D. Loris, “Time to Lift the Ban on Crude Oil Exports,” Heritage Foundation *Backgrounder* No. 2910, May 15, 2014, <http://www.heritage.org/research/reports/2014/05/time-to-lift-the-ban-on-crude-oil-exports>.

vation as companies face more competition and meet challenges to retain or expand their market share. The result would be more ingenuity in energy markets, higher-quality products at competitive prices, and an improved standard of living.

5. Repeal the Renewable Fuel Standard (RFS).

The Renewable Fuel Standard requires refiners to blend billions of gallons of ethanol into fuel each year. Most of the ethanol comes from corn. This artificially raises the cost for drivers because ethanol is less efficient and has proven harmful to smaller engines.¹² Additionally, the mandate drives up food prices, not just for American families, but also around the world because corn is a staple food in many countries as well as a staple feed for livestock.¹³ As a result, many food associations and anti-hunger organizations oppose the mandate. Although environmental organizations initially supported the mandate to reduce oil use and greenhouse gas emissions, many now argue that the ethanol mandate is poor environmental policy. Further, the program has increasingly proven to be unworkable as the Environmental Protection Agency has been unable to set annual standards, which attempt to balance the market's ability to produce biofuels with demand.

Enacted in 2005 and expanded by a Republican Congress in 2007, many Republicans have since rejected the RFS as bad policy. The 2012 drought cracked support for the ethanol mandate, and more Members of Congress have supported varying degrees of exemptions, reducing the standard, or an outright repeal. Legislation to eliminate the mandate sits in both the House and Senate, and

Members of Congress from both parties have called for its repeal. Senator John Barrasso (R-WY) has called the mandate “fundamentally broken and beyond repair,” and Representative Peter Welch (D-VT) has argued for the need to “push the pause button so that Congress can reevaluate this misguided policy before more harm is done.”¹⁴ The reality is that, if ethanol and advanced biofuels were economically viable alternative forms of transportation fuel, the federal government would not need to mandate their production and use.

6. **Reform DOE laboratories.** For far too long, the DOE has attempted to use taxpayer money to drive technologies all the way to the market, crippling the role of entrepreneurs and wasting billions of taxpayer dollars in the process. When the government attempts to drive technological commercialization, it circumvents the competitive process that properly assigns risk and reward in an open market. By pulling capital out of the private sector to finance government-supported projects, this intervention also creates a dependency on the taxpayer that can hinder innovation over the long term. Bipartisan support to reform the national labs emerged in the wake of failed stimulus spending to push renewable technologies to market and with the growing pressure to cut budgets. According to Senator Marco Rubio (R-FL), “[O]ur national labs need the ability to partner more easily with the small businesses that make up the backbone of the American free enterprise system,” and Representative Derek Kilmer (D-WA) has advocated for “the tools and the freedom to widen the impact of [the labs] great discoveries.”¹⁵

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12. Ed Perratore, “Gas with Ethanol Can Make Small Engines Fail,” *Consumer Reports*, March 22, 2013, <http://www.consumerreports.org/cro/news/2013/03/gas-with-ethanol-can-make-small-engines-fail/index.htm> (accessed October 9, 2014).
 13. David W. Kreutzer, “Renewable Fuel Standard, Ethanol Use, and Corn Prices,” Heritage Foundation *Backgrounder* No. 2727, September 17, 2012, <http://www.heritage.org/research/reports/2012/09/the-renewable-fuel-standard-ethanol-use-and-corn-prices>.
 14. News release, “Barrasso, Pryor, Toomey Bipartisan Bill Repeals Renewable Fuel Standard,” Office of Senator John Barrasso (R-WY), June 20, 2013, http://www.barrasso.senate.gov/public/index.cfm?FuseAction=PressOffice.PressReleases&ContentRecord_id=62b6454c-fa15-c3dc-d2e2-85e0caac0c5e (accessed November 6, 2014), and news release, “169 Bipartisan Members Urge EPA to Lower Renewable Fuel Standard,” Office of Representative Bob Goodlatte (R-VA), October 31, 2013, http://goodlatte.house.gov/press_releases/467 (accessed November 6, 2014).
 15. New release, “Kilmer, Hultgren Praise Bipartisan Passage of National Labs Bill,” Office of Representative Derek Kilmer (D-WA), June 22, 2014, <http://kilmer.house.gov/media-center/press-releases/kilmer-hultgren-praise-bipartisan-passage-of-national-labs-bill> (accessed November 6, 2014), and news release, “Senators Coons and Rubio Introduce Bill to Modernize Aspects of National Lab System,” Office of Senator Christopher Coons (D-DE), January 29, 2014, <http://www.coons.senate.gov/newsroom/releases/release/senators-coons-and-rubio-introduce-bill-to-modernize-aspects-of-national-lab-system> (accessed November 6, 2014).

A more appropriate and productive role for the DOE is to conduct the basic research to meet government needs that the private sector would not undertake and to allow the private sector, using private funds, to tap into that research and commercialize it when there is an attractive opportunity to do so. Such a system would also allow workers at the federal labs, when appropriate and without violating conflict-of-interest rules, to push research into the marketplace if they see an opportunity. To that end, the House easily passed the Department of Energy Laboratory Modernization and Technology Transfer Act of 2014 (H.R. 5120) to increase flexibility and private-sector access to the national labs, and a companion piece, America Implementing New National Opportunities to Vigorously Accelerate Technology, Energy, and Science (INNOVATES) Act (S. 1973), has been introduced in the Senate.

Conclusion

Congress has a new chance to govern. In the energy sector, Americans have become increasingly frustrated with a federal government that has been too keen to hand out favors to politically preferred energy technologies and fuels, whether in the form of special treatment for renewables or shirking responsibility to manage nuclear waste as the law dictates.

However, a new Congress should not mean swapping favors for renewables with favors for oil and gas. Americans come up short either way. To increase energy production, create jobs, and grow the economy, Congress should pass reforms that leave more decisions in the hands of Americans and fewer in the hands of Washington politicians and bureaucrats.

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