The Heritage Foundation
LEADERSHIP FOR AMERICA

BACKGROUNDER

No. 2689 | MAY 31, 2012

Ten Actions Congress Can Take to Lower Gas Prices

Nicolas D. Loris

Abstract

President Obama and his Administration have consistently applied practices that block oil production on federal lands, denying access to energy sources and economic activity. Nevertheless, success stories on non-federal lands demonstrate the power of the free market to apply human ingenuity to natural resources and create economic growth and jobs while protecting the environment. Production on private and state lands is largely responsible for the increased oil production that President Obama frequently touts. On federal lands, production fell in FY 2011. Heritage Foundation energy policy analyst Nicolas Loris suggests there are at least 10 actions that Congress can take to remove barriers to oil production and supply, and to stimulate economic growth and job creation in both the near and long term.

This paper, in its entirety, can be found at **http://report.heritage.org/bg2689**

Produced by the Thomas A. Roe Institute for Economic Policy Studies

The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400 | heritage.org

President Barack Obama consistently touts the fact that domestic oil production is the highest it has been in eight years. While this is a positive development for America, production has not increased as a result of the President's policies—but in spite of them. Much of the increased activity is on private lands over which the Administration has no control. North Dakota, for instance, has been the poster child for what can happen when the government unleashes free enterprise by reducing harmful overregulation and unnecessary delays, and allows states to develop and commercialize their resources. The example of North Dakota also shows how quickly domestic oil can reach the market. In December 2009, North Dakota had an average of 75 drilling rigs. That month, the state had 4,600 wells producing 7.5 million barrels of crude oil.[1] In January 2012, North Dakota had an average rig count of 200 with 6,600 wells pumping out 16.9 million barrels of oil.[2] The opposite is occurring on federal lands where production fell in fiscal year (FY) 2011 (the most current fiscal year for which data are available).[3]

In the near, intermediate, and long term, oil producers can bring more domestic oil to the world

Talking Points

- Domestic oil production is up *in spite* of President Obama's energy policies, not because of them. Production has increased on private and state lands, as seen in North Dakota, where well and rig counts have soared. On federal lands, production fell in FY 2011.
- Increasing oil supply by removing barriers to oil exploration and production and reforming the regulatory process will help lower prices and generate economic activity. Environmental review and leasing processes should be reformed to be timely and reliable.
- Congress should open new territory for development rather than ignoring the needs and abilities of local economies to balance economic growth and environmental priorities.

market, increasing supply to offset rising demand and increasing America's percentage of the world's total production to help minimize supply shocks. Increasing American energy production will create jobs, increase economic growth and raise government revenue—without raising taxes. Following are 10 actions that Congress can take to help lower gas prices in both the short term and long term:

1. **Lift offshore and onshore exploration and drilling bans.** The United States is the only country in the world that has placed a majority of its territorial waters off limits to oil exploration. Congress should lift the ban on exploration in the eastern Gulf of Mexico and the Atlantic and Pacific coasts, and should conduct more lease sales off Alaska's coasts. Another obvious area in which to expand oil production is in Alaska's Arctic National Wildlife Refuge (ANWR), where an estimated 10.4 billion barrels of oil lie beneath a few thousand acres that can be accessed with minimal environmental impact. Congress should require the Secretary of the Interior to conduct lease sales if a commercial interest exists to explore and drill. Congress should also provide the funding, if necessary, for the federal government to hire personnel to conduct new lease sales after opening America's territorial waters and currently blocked onshore areas.

2. **Approve Keystone XL.** Had President Obama approved the permit for construction of the Keystone XL Pipeline, up to 830,000 barrels of oil per day would have come from Canada to the Gulf Coast refineries as early as 2013.[4] But President Obama rejected the permit, claiming that the Department of State did not have the necessary information to recommend an approval. The reality is that the State Department has already conducted a thorough, three-year environmental review with multiple comment periods. The State Department studied and addressed risks to soil, wetlands, water resources, vegetation, fish, wildlife, and endangered species. It concluded that construction of the pipeline would pose minimal environmental risk.[5] Congress should recognize its authority to regulate commerce with foreign nations to accept the State Department's conclusion and approve construction of the pipeline.

3. **Require timely environmental review.** The environmental review requirements for oil and gas projects to commence on federal lands under the National Environmental Policy Act (NEPA) take entirely too long. The White House Council on Environmental Quality (CEQ) estimates that an environmental impact statement (EIS) to approve a larger drilling project should take one year to complete, while smaller environmental assessments (EAs) should take no more than three months.[6] Since 2005, it has taken the government an average of five years to complete an EIS, and EAs regularly take over four years.[7] Congress should place a 270-day time limit on NEPA reviews, ensuring a quick, efficient review process for energy projects on federal lands.

4. **Permitting process.** Processing a permit to drill also takes far too long. The processing time frames for Application for Permit to Drill (APD) extend well beyond

---

1. Industrial Commission of North Dakota, Oil & Gas Division, "2009 Monthly Statistics Update," https://www.dmr.nd.gov/oilgas/stats/2009monthlystats.pdf (accessed May 10, 2012).
2. Industrial Commission of North Dakota, Oil & Gas Division, "2012 Monthly Statistics Update," https://www.dmr.nd.gov/oilgas/stats/2012monthlystats.pdf (accessed May 10, 2012).
3. U.S. Energy Information Administration, "Sales of Fossil Fuels Produced from Federal and Indian Lands, FY 2003 through FY 2011," March 14, 2012, http://www.eia.gov/analysis/requests/federallands/ (accessed May 10, 2012).
4. U.S. Department of State, "The Keystone XL Pipeline: The Role of the State Department," August 19, 2011, http://www.state.gov/documents/organization/170556.pdf (accessed May 14, 2012).
5. U.S. Department of State, "Final Environmental Impact Statement for the Proposed Keystone XL Project," Executive Summary, August 26, 2011, http://keystonepipeline-xl.state.gov/archive/dos_docs/feis/index.htm (accessed May 11, 2012).
6. Department of Energy, Council on Environmental Quality, "Adoption of EISs," http://ceq.hss.doe.gov/nepa/regs/40/30-40.HTM (accessed May 10, 2012).
7. Western Energy Alliance, "Top Ten Ways the Federal Government is Preventing Onshore Oil and Natural Gas Production," May 2011, http://westernenergyalliance.org/wp-content/uploads/2011/06/Western-Energy-Alliance-Prevention-of-Federal-Onshore-Production-Detailed1.pdf (accessed May 10, 2012).

the 30-day time limit stipulated by the Energy Policy Act of 2005. This delay is creating the perverse incentive for companies to submit more permit applications than they need with the intention that some will make it through the process. Congress should require the Department of the Interior to honor the law's deadline unless the Interior finds fault with the application. If Interior concludes that the permit application is not complete, it should outline specific steps on how to complete it. If Interior does not do so, the permit application should be considered accepted. Congress should ultimately transition the permitting process to state regulators, who are best able to balance economic growth and environmental well-being.

5. **Issue leases on time.** Rather than implementing an efficient leasing process, the Department of the Interior added three additional administrative regulations to the leasing process in January 2010.[8] These are duplicative and unnecessary levels of bureaucracy in addition to what is already an extensive and thorough leasing process. Moreover, after a company wins the bid for a lease and purchases, Interior routinely fails to issue the lease, despite being statutorily required to do so within 60 days. Oil and gas companies have successfully sued the federal government, but have nevertheless been prevented from moving forward with exploration and drilling in a timely fashion. Congress should remove these additional levels of red tape and stipulate that if Interior fails to issue the lease to the winning bidder within 60 days, the lease should be considered issued by default.

6. **Allow development of oil shale.** Oil shale production in the United States could be a global game changer for oil production. The U.S holds the largest known reserves of oil shale in the world. According to the Bureau of Land Management, the U.S. has more than five times the proven reserves of oil in Saudi Arabia.[9] Seventy percent of American oil shale reserves lie beneath federal lands. The Obama Administration has back-peddled on oil shale development by applying new regulations, unworkable time frames, and significantly reducing the land available for research and development leases.[10] The new rules also unnecessarily crowd out the opportunity for smaller companies to invest in research leases. While the technology is still developing and environmental considerations need to be taken into account, Congress should make permanent the 2008 Department of Interior guidelines for oil shale development in order to provide regulatory certainty for companies to pursue an extremely valuable resource.

7. **Stop the land grab.** The Department of the Interior's land grab (Secretarial Order No. 3310) to unilaterally and arbitrarily classify federal land areas as "Wilderness" or "Wild Lands" will not only restrict access to new drilling areas but also prevent production on existing leases. Once again, the Administration is ignoring the needs of regional and local economies and their ability to balance economic growth and environmental priorities. Congress should permanently block Secretarial Order No. 3310 and any Interior-proposed designation should require congressional approval.

8. **Implement 50/50 revenue sharing.** States receive 50 percent of the revenues generated by onshore oil and natural gas production on federal lands and Congress should apply this allocation offshore as well. Drilling off states' coasts and allowing them a larger share of the royalty revenue would encourage more state involvement in drilling decisions. Offshore drilling would promote state and local government participation in allocating funds as well, whether closing a state's deficit or coastal restoration and conservation.

9. **Prohibit greenhouse gas and Tier 3 gas regulations.** In 2010, the Department of the Interior suspended 61 oil and natural gas leases in Montana

8. Department of the Interior, "New Oil and Gas Policy Fact Sheet," January 6, 2010, http://www.doi.gov/documents/BLM_Energy_Reform_Fact_sheet.pdf (accessed May 10, 2012).
9. U.S. Department of the Interior, Bureau of Land Management, "Oil Shale Resources on Public Lands," April 12, 2011, http://www.blm.gov/wo/st/en/prog/energy/oilshale_2/background.html (accessed May 10, 2012).
10. U.S. House of Representatives Natural Resources Committee, "Hastings & Lamborn Statements on the Decline of American Oil Shale Research," January 28, 2010, http://naturalresources.house.gov/News/DocumentSingle.aspx?DocumentID=168232 (accessed May 10, 2012).

alone because environmental groups charged that the energy production would contribute to climate change.[11] Reducing greenhouse gas emissions, and simply reporting on emission outputs, is extremely costly, especially for small, family-owned wells. As the Environmental Protection Agency's administrator, Lisa Jackson, has admitted, reducing greenhouse gas emissions in America will have an insignificant impact on overall global emissions and thus no noticeable effect on global temperatures. The most effective and comprehensive approach to stopping the federal government's power grab would be to permanently prohibit any federal agency from regulating greenhouse gas emissions. Additionally, the proposed Tier 3 gas regulations (designed to replace the Tier 2 regulations issued in 2000) to lower the amount of sulfur in gasoline could add 6 cents to 9 cents per gallon to the cost of manufacturing gasoline—and the Environmental Protection Agency has declared no measurable air quality benefits.[12] Congress should prohibit the implementation of these regulations because such changes have broad consequences on the economy and society and are not to be undertaken by unelected government officials.

10. **Repeal the renewable fuel standard.** Another egregious problem is the statutorily mandated Renewable Fuel Standard (RFS), more commonly known as the ethanol mandate. On the one hand, in the very near future refiners will be fined when the amount of ethanol mandated exceeds the amount that can be refined for use. On the other hand, the mandate requires production of cellulosic ethanol (made primarily from non-food sources, such as wood chips, switch grass, or corn stover) and yet no companies have been able to produce commercially viable cellulosic ethanol. As a result, in 2011 refiners had to pay more than $6 million in waiver credits or surcharges to comply with the Environmental Protection Agency's minimum volume requirements.[13] The ethanol mandate has been both an economic and environmental disaster. Congress should repeal the RFS.

Creating the Right Framework

The most effective response to oil price spikes is simply to allow markets to work. Government restrictions and regulations impede the market's effectiveness in responding to changes in oil prices. Producers and consumers respond to changes in prices because these changes communicate information. As the price of oil goes up, producers explore and drill for more. The federal government should create the framework for companies to extract and develop America's untapped resources if a commercial interest exists. Increasing supply will help lower prices and generate much-needed economic activity in the United States.

—***Nicolas D. Loris*** *is the Herbert and Joyce Morgan Fellow in the Thomas A. Roe Institute for Economic Policy Studies at The Heritage Foundation.*

11. U.S. House of Representatives, Natural Resources Committee, "American Energy Roadblocks by the Obama Administration: Costing American Jobs, Increasing Energy Prices," February 2012, http://naturalresources.house.gov/Issues/Issue/?IssueID=15410 (accessed May 10, 2012).
12. David C. Tamm and Kevin P. Milburn, "Addendum to Potential Supply and Cost Impacts of Lower Sulfur, Lower RVP Gasoline," Baker & O'Brien Incorporated, March 2012, http://www.api.org/news-and-media/news/newsitems/2012/mar-2012/~/media/Files/News/2012/12-March/Addendum-Potential-Impacts-of-Lower-Sulfur-Lower-RVP-Gasoline-Report.ashx (accessed May 10, 2012).
13. Jenny Mandel, "Ethanol: Refiners Protest EPA's 'Ridiculous' Cellulosic Targets," E & E Publishing, June 22, 2011, http://www.eenews.net/public/Greenwire/2011/06/22/5 (accessed May 10, 2012).