Summary of H.R. 4480

DOMESTIC ENERGY AND JOBS ACT OF 2012: TITLES I AND II

Committee on Energy and Commerce, Democratic Staff

H.R. 4480, the Domestic Energy and Jobs Act of 2012, combines seven bills on the oil industry's wish-list into one big give-away to big oil. The first two titles of H.R. 4480 incorporate bills reported by the Energy and Commerce Committee. These provisions would repeal a core principle of the Clean Air Act, allow more oil industry pollution, and mandate more drilling on public lands.

H.R. 4480 poses a significant threat to the public health by eliminating EPA's ability to set health-based air quality standards for smog and blocking important regulations to reduce air pollution. It also impairs the functioning of the Strategic Petroleum Reserve, and it wastes public resources on new bureaucracies and redundant government programs. These provisions would do nothing to reduce gasoline prices or create jobs.

Gutting the Clean Air Act

Title II of H.R. 4480 eliminates a core principle of the Clean Air Act with respect to ozone pollution, which is also known as smog. For over 40 years, EPA has set health-based air quality standards using scientific and medical evidence to identify the maximum safe levels of air pollution for humans to breathe. EPA and the states then adopt requirements to reduce air pollution to achieve those air quality standards, taking costs into account. This approach was unanimously upheld by the Supreme Court in an opinion written by Justice Scalia.[1] The health-based standards in the Act are especially important for protecting children, the elderly and others who are particularly susceptible to harm from air pollution.

H.R. 4480 would overturn decades of clean air policy by requiring EPA to take costs to industry into account when deciding how much ozone pollution is safe to breathe. This is equivalent to your doctor basing your diagnosis on the cost of treatment. The extraordinary success of the Clean Air Act – and decades of progress in cleaning our air – would be in jeopardy if this provision became law.

Blocking Requirements to Reduce Air Pollution

Title II of H.R. 4480 also blocks EPA from finalizing important air quality rules opposed by the oil industry while they are being studied by a newly created government committee. The future rules blocked by this bill would reduce tailpipe pollution from motor vehicles and toxic air pollution from oil refineries. The bill also eliminates any deadlines for action on these rules.

One of the blocked regulations is the "Tier 3" standards that would reduce pollution from motor vehicles by requiring cleaner vehicles and fuels. According to the National Association of Clean Air Agencies, Tier 3 standards that reduce the amount of sulfur in gasoline would be a highly cost-effective measure for meeting the health-based air quality standards; absent these standards, states and localities would be forced "to turn to other, more expensive, less cost-effective measures" to meet air quality standards.[2] The Tier 3 standards will also help automakers by enabling a harmonized national vehicle emissions control program and facilitating the development of lower cost technologies to improve fuel economy.[3]

EPA would also be blocked from issuing rules to reduce toxic air pollution from refineries, which can cause cancer, birth defects, and other serious health problems, as well as rules to reduce carbon pollution from new refineries, which contributes to climate change.

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[1] *Whitman v. American Trucking Associations*, 531 U.S. 457, 121 S. Ct. 903 (2001).
[2] National Association of Clean Air Agencies, *Cleaner Cars, Cleaner Fuel, Cleaner Air: The Need for and Benefits of Tier 3 Vehicle and Fuel Regulations,* 15 (Oct. 31, 2011).
[3] *Id.*

In addition to eliminating the requirement that any future standard for ozone be health based, these provisions would prevent EPA from finalizing "any rule revising or supplementing the national ambient air quality standards for ozone" while the government panel is studying the regulations. This would block EPA from updating the 2008 ozone standard issued under the Bush Administration. Because the bill blocks any rules that "supplement" the standard and does not define "supplement," this provision could have the effect of blocking the rules necessary to implement the Bush Administration ozone standard, leaving only the out-dated 1997 ozone standard in effect.

Putting Drilling Above All on Public Lands

Title I of H.R. 4480 requires the Secretary of Energy to develop a plan to increase domestic oil and gas leasing from onshore and offshore federal lands that are under the jurisdiction of the Departments of Agriculture, Energy, Interior, and Defense within 180 days of a release of petroleum from the Strategic Petroleum Reserve (SPR).

A new government bureaucracy at the Department of Energy would develop this plan, which duplicates the oil and gas leasing programs at the Departments of Interior and Agriculture. The plan must increase the acreage of federal lands leased by a percentage equaling the percentage of SPR petroleum released.

According to the majority, there are 2.4 billion acres of federal land. Based on this estimate, releasing 10 percent of the SPR (about 70 million barrels of oil) would appear to require 240 million acres of additional public land to be leased for oil and gas production, more than tripling the amount of land currently leased for production. The legislation requires the Departments of Agriculture, Defense, and Interior to comply with the Energy Department's plan.

Harming National Security by Inhibiting Use of the Strategic Petroleum Reserve

The Strategic Petroleum Reserve serves an essential function in protecting American consumers and businesses from the effects of global oil supply disruptions. The Department of Energy, which manages the SPR, testified before the Energy and Power Subcommittee that this legislation "will have a negative impact on the decision-making process to employ the SPR, which should be based solely on protecting the United States from the consequences of severe supply interruptions, and could lead to an inability to respond quickly to such threats."[4]

For example, in September 2005, President Bush authorized the release of up to 30 million barrels of oil from the SPR to respond to Hurricane Katrina.[5] Under H.R. 4480, this decision would have triggered a requirement to plan for leasing an additional 100 million acres of land. Such a monumental task would act as a significant deterrent for deployment of the SPR.

Doing Nothing to Lower Gasoline Prices

H.R. 4480 would do nothing to protect consumers from gasoline price spikes. During the subcommittee markup of the bill that became Title II of H.R. 4480, Chairman Whitfield himself stated, "there is nothing in our legislation, nor have we ever indicated there is anything in this legislation, that would, in and of itself, reduce gasoline prices." [6]

Even if H.R. 4480 resulted in increased crude oil production on public lands, and even if such an increase resulted in higher overall U.S. production, the bill would not lower gasoline prices. Gasoline prices are a

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[4] *Id.*, at 5-6.
[5] U.S. Department of Energy, *Releasing Crude Oil from the Strategic Petroleum Reserve*, (online at http://fossil.energy.gov/programs/reserves/spr/spr-drawdown.html) (accessed on June 4, 2012).
[6] Committee on Energy and Commerce, Subcommittee on Energy and Power, Statement of Chairman Ed Whitfield, *Markup of H.R. ___, The Gasoline Regulations Act of 2012, and H.R. ___, The Strategic Energy Production Act of 2012*, 112th Cong. (Apr. 17, 2012).

function of world prices for crude oil, and experts broadly agree that an increase in U.S. production is likely to have little or no effect on world oil prices.

Experience underscores this point. According to the Energy Information Administration (EIA), crude oil production on offshore and onshore federal lands in 2011 was higher than in 2006, 2007, or 2008—the last three years of the Bush Administration.[7] Additionally, crude oil production on all lands in the United States is currently at an eight-year high.[8] Yet oil and gasoline prices are still high in the United States because oil prices are set on a global market that the United States has little power to control.

The Associated Press conducted a statistical analysis of 36 years of gasoline prices and U.S. domestic oil production data and found no statistical correlation between the volume of oil produced and the price of gasoline at the pump.[9] A recent CBO report reached the same conclusion, stating: "Even if the United States increased production and became a net exporter of oil, U.S. consumers would still be exposed to gasoline prices that rose and fell in response to disruptions around the world."[10] Canada is largely energy independent for oil and last year exported more than 70% of the oil it produced.[11] Yet Canadian consumers experience the same gasoline price spikes as consumers in the United States, driven by prices in the world oil market.[12]

Doing Nothing to Create Jobs

Providing giveaways to the oil industry also will do nothing to create jobs. The past 40 years of experience under the Clean Air Act proves that we can have both cleaner air and a vibrant economy. Since 1970, air pollution has decreased by more than 70%, while the economy has grown by more than 200%.[13] Peer-reviewed analyses have shown that by 2020, the economic benefits of cleaner air will have outweighed the costs of controlling pollution by 30 to 1.[14]

In fact, this legislation is likely to cost jobs. Requiring industries to clean up their pollution forces them to make investments that add jobs to the economy. Numerous studies have documented this effect, and it is especially true when the economy is not at full employment and when companies are sitting on large cash reserves, both of which are true today.

In 2008, the environmental technologies industry generated approximately $300 billion in revenues, produced $44 billion in exports, and supported nearly 1.7 million jobs.[15] Environmental protection activities more broadly accounted for 5 million jobs in 2003.[16] Just one of the regulations blocked by this bill, the Tier 3

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[7] Energy Information Administration, *Sales of Fossil Fuels Produced from Federal and Indian Lands, FY 2003 through FY 2011,* 3 (Mar. 2012).
[8] Energy Information Administration, *Crude Oil Production* (online at www.eia.gov/dnav/pet/pet_crd_crpdn_adc_mbblpd_a.htm); Energy Information Administration, *Annual Energy Outlook 2012 Early Release, Table 11: Liquid Fuels Supply and Disposition* (Jan. 2012).
[9] *More Drilling Won't Lower Gas Prices, Study Shows*, Associated Press, (Mar. 22, 2012). Available online through various news outlets. *See, e.g.,* www.cbsnews.com/8301-505145_162-57401456/more-us-drilling-didnt-drop-gas-price/ (accessed on June 4, 2012).
[10] U.S. Congressional Budget Office, *Energy Security in the United States* (May 9, 2012) (online at www.cbo.gov/publication/43012).
[11] Statistics Canada, *Table 126-0001: Supply and disposition of crude oil and equivalent* (online at www5.statcan.gc.ca/cansim/a05?lang=eng&id=1260002&pattern=1260002&searchTypeByValue=1&p2=35) (accessed Mar. 19, 2012).
[12] Congressional Budget Office, *Energy Security in the United States*, 6 (May 2012).
[13] U.S. Environmental Protection Agency, *Air Quality Trends, Comparison of Growth Areas and Emissions: 1970-2010* (online at www.epa.gov/airtrends/images/comparison70.jpg) (accessed June 13, 2012).
[14] U.S. Environmental Protection Agency, *Empirical Evidence Regarding the Effects of the Clean Air Act on Jobs and Economic Growth* (Feb. 8, 2011) at 2.
[15] U.S. Department of Commerce, International Trade Administration, *Environmental Technologies Industries: FY2010 Industry Assessment* (online at: http://web.ita.doc.gov/ete/eteinfo.nsf/068f3801d047f26e85256883006ffa54/4878b7e2fc08ac6d85256883006c452c/$FILE/Full%20Environmental%20Industries%20Assessment%202010.pdf).
[16] Roger H. Bezdek, Robert M. Wendling and Paula DiPerna**,** *Environmental protection, the economy, and jobs: National and regional analyses***,** Journal of Environmental Management, Volume 86, Issue 1**,** 63-79 (Jan. 2008).

standards for cleaner vehicles and fuels, is estimated to produce 24,500 jobs a year for three years and 5,300 permanent jobs, if EPA is allowed to finalize the rule.[17]

Similarly, there is no credible argument that opening more public lands for drilling would boost jobs. Oil companies are already sitting on leases for over 73 million acres, more than 45 million of which are inactive.[18] According to the Department of Interior, of the 37 million acres of offshore land offered for lease in 2010, over 90% received no bids from industry.[19]

[17] Navigant Economics, *Economic Analysis of the Implications of Implementing EPA's Tier 3 Rules* (June 14, 2012).
[18] U.S. Department of Interior, *Oil & Gas Lease Utilization Report to the President*, 3 (May 2012) (online at www.doi.gov/news/pressreleases/loader.cfm?csModule=security/getfile&pageid=296238).
[19] Committee on Energy and Commerce, Testimony of Robert Abbey, Director, Bureau of Land Management, United States Department of the Interior, *The American Energy Initiative: A Focus on Legislative Responses to Rising Gasoline Prices*, 112th Cong. (Mar. 28, 2012).