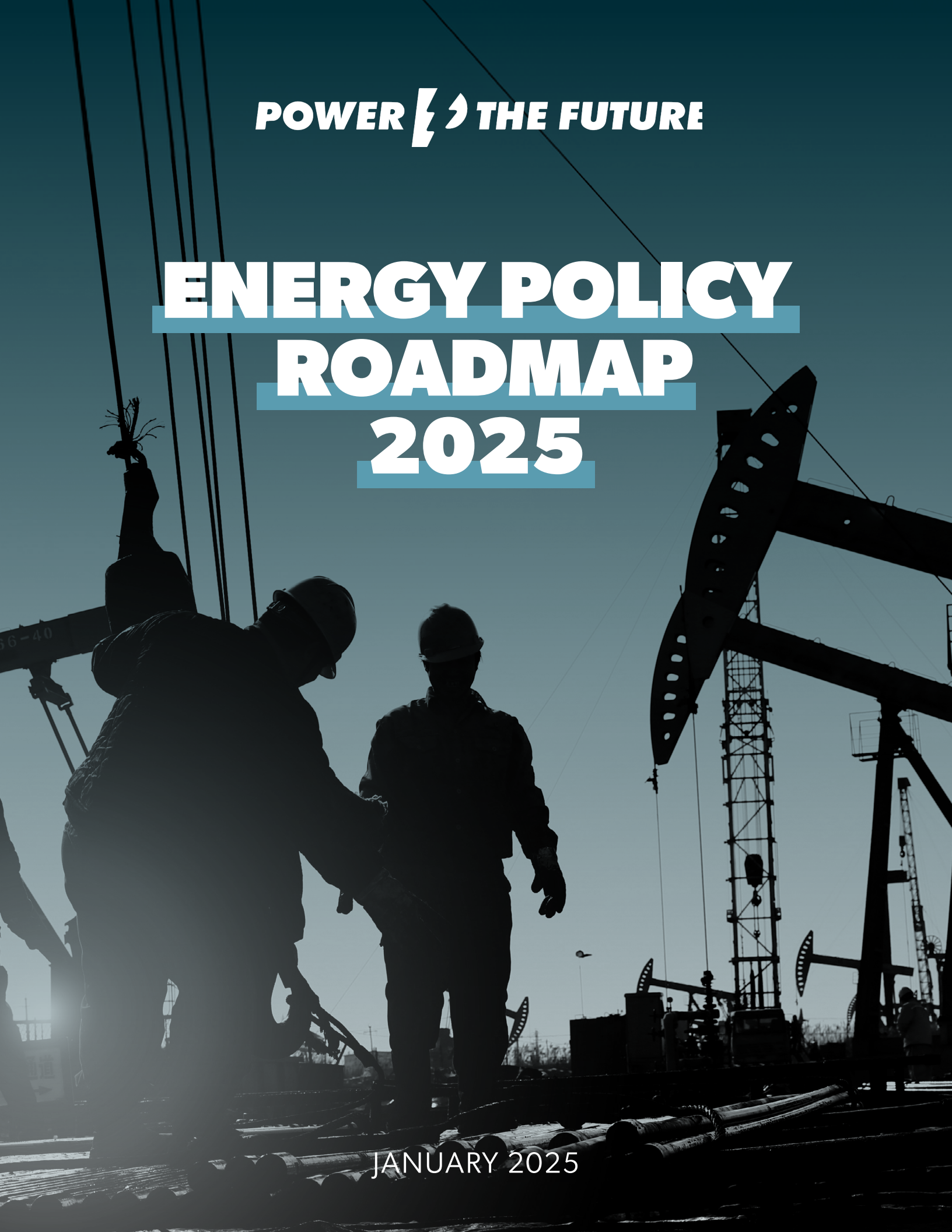
POWER THE FUTURE

ENERGY POLICY ROADMAP 2025



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INTRODUCTION

The election of 2024 delivered a "clean sweep" of the White House, Senate, and House of Representatives for the Republican party. Republicans expanded vote totals in nearly every region of the country and President Trump won the popular vote. Why this result was unexpected by pollsters and commentators, and how the Harris campaign massively fumbled what had been incessantly marketed as the closest election of our lifetimes, we will leave to the myriad coroners that will conduct their own autopsies on the results for years to come — with one exception.

A clear influencing factor to the electoral outcome that rises above all of those in the "merely plausible" category was the effect of inflation. Post-pandemic supply chain disruptions, geopolitical tensions disrupting the flow of energy and goods across international borders, and ham-fisted policy interventions raised prices on consumers around the world. This led to democratic governing coalitions across the West and East being thrown out or having their mandate sharply curtailed. The German governing coalition withered under the weight of the woeful Energiewende and Russia's invasion of Ukraine and resulting energy price increases crushing manufacturing and consumers. Emmanuel Macron put on a brave face as he presided over the summer Olympics, trying to ignore his party's electoral drubbing first precipitated by opposition to policies increasing fuel prices. The return of modest inflation to post-bubble Japan cost the Liberal Democratic Party 56 seats and the majority in the lower house of the Diet, creating uncertainty for a party that has ruled outright or in coalition for nearly the entire postwar era. The story repeated itself around the free world.

In America, Democrats were trading on "vibes" after Biden dropped out of the race, hoping that good feelings and vague policy platitudes ("opportunity economy") and gradually decreasing inflation would win the day for them. In reality, prices of goods across the board are up nearly 20 percent from before Biden took office. Despite Biden inaccurately messaging improvements to the runaway inflation occurring under his watch, disinflation is not the same as deflation – the rate of inflation is no longer accelerating at historic highs, but it remains above the two-percent target of the Federal Reserve and those long lost, more affordable prices are not coming back.

The two legislative blowouts that Democrats rammed through the 117th Congress on a partisan basis via the reconciliation process were supposed to be the salve for what ails the American consumer. Instead, they only increased the pain. During the campaign, Harris and congressional Democrats essentially tried to ignore their "historic achievements" of the American Rescue Plan Act (ARPA) and the Inflation Reduction Act (IRA), which according to their own authors infused $1.9 trillion and more than $1.2 trillion, respectively, into an economy already awash in covid recovery money and pent-up demand. When even liberal luminaries like Larry Summers warned that the outcome of these packages would be more inflation, they were told they were not only wrong but undermining the party. Americans watched these pork-laden trains rush to leave the station within the two years that Democrats had unified government, even if that "mandate" only extended to a 50-50 Senate, with Vice President Harris casting the tie breaking votes.

For their parts, the Federal Reserve Board Chairman Jerome Powell and Treasury Secretary Janet Yellen referred to Biden-era inflation initially as "transitory," then as "sticky," but assured us it was of no concern. The Biden White House echoed this messaging approach, assuring Americans not to believe their lying eyes (or wallets).

But the American voter knew better. As wages failed to offset increased prices in groceries, durable goods like cars and appliances, rent and mortgages, education, healthcare, and the other essentials necessary to make it through life in modern America, reports of Democratic Washington injecting more than $3 trillion into an overheating economy was seen for what it was – a disingenuous effort to buy the votes of specific special interest groups at the expense of the public. The fact that these efforts were marketed as disinflationary, and that those who were rightly critical of them were simply too dense to understand, explain the principal motivation — "the economy" — that most voters said motivated them in the ballot box. That this vote primarily fell to change candidates — led by President Trump — pledging to throw out those policy experts that had betrayed themselves as at best unsympathetic to, and at worst blissfully unaware of, the plight of the working man should not be surprising.

Energy courses through the American economy at a velocity second only, perhaps, to the dollar itself. Affordable and reliable energy is essential to American households, the domestic manufacturing base, the tech sector, agriculture, transportation, and our soft power abroad. By some estimates, but for the energy revolution brought about by hydraulic fracturing, the GDP growth of the post-Great Recession era would have been essentially flat. Economic progress during this period was energy growth.

After two decades of near-zero electric demand growth and a decoupling of that metric from broader GDP, demand for electricity is poised to take off as the race for artificial intelligence, the reshoring of supply chains, and electrification of certain industries accelerate. Unless supply is made available to meet this demand, the consequences to America's quality of life and ability to meet the challenges

of the future will be dire. The most obvious side effect of bad energy policy is – you guessed it – inflation across goods and services economy wide.

As they are challenged by similarly thin margins in the 119th Congress, Republican Washington would do well to both learn from the mistakes of the Democrats in the 117th Congress specifically, and the Biden-Harris Administration over the past four years more generally. Yet that can also use the procedural tools Democrats exploited during their spending sprees, this time to roll back the inflationary accelerants and unshackle American energy production and productivity. Though the Democrats set timelines on most of the discretionary spending in the Inflation Reduction Act to prevent rescission, there will be juicy targets. More interestingly, by directing the actions of eight different standing committees in each chamber (the initial failed reconciliation effort, the Build Back Better Act, instructed 13 committees!), the Democrats provided Republicans a playbook for expanding the breadth of the budget reconciliation process. If Congress is savvy, it can use this model to roll back the worst of the remaining spending blowouts, right-size the tax code to maximize return to the taxpayer, and even provide pilot projects for what reasonable energy and permitting policies would look like.

In this Energy Policy Roadmap for 2025, Power the Future will delve into these opportunities as we identify the ten issues most ripe for reform in the 119th Congress and how these threads may be pulled together to knit a coherent American energy policy.

For the second Congress in a row, the simplest and – from a political messaging perspective –most impactful single policy statement Congress could make that the inflationary policies of the Biden-Harris Administration are truly in the dustbin of history would be the repeal of the Inflation Reduction Act's natural gas tax, euphemistically known as the "Waste Emissions Charge" (WEC). Progressive environmental organizations will lament that the WEC is essential to reducing emissions of methane to the atmosphere, hoping that no one pays attention to the fact that multiple government agencies track or regulate methane emissions across the economy, in particular the Environmental Protection Agency (EPA) already requires methane emissions reporting and regulates methane sources, and the oil and gas sector have been reducing their methane intensity even while breaking production records.

The reason supporters are marketing the WEC as the only means to address methane is to obscure the fact that it is a tax, pure and simple. And one meant to make one of America's most available and affordable energy sources less so.

Its authors were savvy. To avoid American voters quickly deducing that the WEC will drive up their monthly gas and electricity bills, the authors of the IRA made sure it was imposed upstream on production and transmission, but not at the distribution level (i.e., the utilities from which consumers and businesses buy their energy – and get billed). This means the line item for "WEC" will not appear like other regulatory costs on consumers' utility bills.

However, the impact is the same – the cost of the tax, for which first payments are coming due in March, will be passed down the supply chain to the consumer.

Natural gas prices have been going down over time, consistently bucked inflationary trends thanks to the advent of hydraulic fracturing and the continued operation of legacy and marginal wells. Moreover, the sector did not face the myriad market and regulatory distortions of the electricity sector (and this is why, despite natural gas being used to generate the bulk of the nation's electricity, end-user natural gas service has not seen the price increases that retail electricity has). The WEC will upend this, adding costs to the natural gas that is produced and makes it to market, while reducing supply as marginal wells are shut in based on the new, government-imposed economic headwinds.

The IRA even added an inflation stair-step for the WEC, so it will not only drive inflation itself but also respond in kind, becoming more costly as the years go on. The impact will be felt not only on those users of natural gas, but also across the economy as natural gas is a key input for fertilizer, plastics, and other goods that reduce the costs of the food we eat and the goods we buy. Consumers, unaware of the policy that caused these price increases, will want to blame someone. The progressives will have a ready bogeyman: the greed of those nefarious oil and gas companies. That will be a total distraction from the actual policy inflating bills and undercutting American energy security.

The antidote to this insanity is pretty straight forward and can be pursued on three parallel tracks.

The first is litigation from industry against the WEC final rule, that was published on November 18th and – lo and behold – goes effective three days before Trump's inauguration. The case to be made would be that the rule went beyond authorities granted by Congress in constructing the WEC compliance program.

The second is to use the Congressional Review Act (CRA) disapproval process. Unlike most Biden-Harris environmental regulations, the WEC is clearly within the CRA "lookback" window for the 119th Congress. Enactment of a resolution of disapproval in the first 100 days of the Trump Administration would mean that the EPA lacks the mechanism to actually collect the first WEC payments.

This buys time for the third and most comprehensive solution, repeal of the WEC itself via reconciliation. The natural gas tax was included in Section 60113 of the IRA, euphemistically known as the Methane Emissions Reduction Program (MERP). As a revenue provision, it can be repealed by reconciliation just as readily as the Democrats used reconciliation to impose it in the IRA. A budgetary score would need to be offset within the jurisdictions of the Senate Environment and Public Works (EPW) Committee or the House Energy and Commerce (E&C) Committee – this is a tough ask. Congressional Republicans will be unlikely to want EPA or a sister agency to impose an offsetting fee of the approximately $6 billion it may take to wipe out the WEC. If another scheme can be found to offset it, so much the better. But even if the full score must be "eaten" in the EPW and E&C budget instructions, this would actually represent the return of dollars from Washington to the natural gas ratepayers around the country from a partisan tax that should have never been implemented.

The benefit to weary consumers and the signal that the new policymakers in Washington finally have the true drivers of inflation in their sights from this simple policy reversal cannot be overstated.

If you subscribe to the theory that we are living in a simulation or one of many potential timelines, somehow we find ourselves in the one where a social media influencer was successful in convincing the government of the most powerful country in the world to undermine its own economy and its ability to support its allies during a time of crisis. That reads like science fiction, but it is what actually led to the Biden Administration's "pause" on approving additional liquefied natural gas (LNG) export terminals and shipments.

Among the political misreads made by the Biden Administration, was the belief that the youth vote both hinged on climate and needed to be motivated to carry a ~~second Biden~~ Harris Administration to victory (it did not, and as previously discussed they obviously encountered issues beyond just the youth vote, which also skewed Republican).

The statutory and legal pathways to approving LNG exports are needlessly convoluted, winding their way through the Federal Energy Regulatory Commission (FERC), the Department of Energy (DOE), the myriad federal and state environmental regulators whose regulatory requirements must be satisfied, and the White House itself.

The Biden Administration chose to upend this already labyrinthine process by directing the Department of Energy to conduct a study – fully voluntarily and without direction by Congress – to determine if impacts to the environment and unrealistically Malthusian expectations about future demand growth suggest that it does not serve American interests to export LNG.

On the market front, the activists are expanding to the global market a flawed logic they use at the regional level in targeting pipelines before FERC review. These project opponents will argue that subscribed pipelines are somehow not actually meeting market demand, as though sponsors make billion-dollar investments and wind through regulatory and litigation limbo for sport and contracts to offtake the gas mean nothing. Instead of targeting pipelines serving utilities in New England and the mid-Atlantic, they have expanded this logic to eastern European and Asian allies clamoring for alternatives to Russian energy (including LNG). In so doing, they propose not only to inflate costs for consumers in those countries and undermine American geopolitical influence, but also to eliminate the benefits of domestic investment and job creation from providing a fuel the world needs and which can also bend the curve on climate emissions by displacing more emissive fuels.

Though there are murmurs that the final report has been held up politically as it did not fulfill its intended purpose of warning of impending climate apocalypse, the delay is likely designed to allow for it to arrive at that outcome and get published right as the Biden Administration turns out the lights. In any event, the entire notion of the DOE study was meant to distract swing voters from the fact that, in truth, the Biden Administration was politically holding up LNG export approvals and thereby limiting production and its attendant economic benefits across the country, even in swing states like Pennsylvania.

Fortunately, since the pause and the study were creations out of thin air, the Trump Administration can undo them on day one and send messages to domestic producers, our allies abroad, and global energy markets that the United

States is again open for business. However, to prevent a recurrence of this self-inflicted economic harm under a future administration, Congress should amend Section 3 the Natural Gas Act to clarify that exports to allies and trade partners, but not hostile regimes, are inherently in the national interest. Alternatively, Congress could remove the political appointees at the Department of Energy from having any say in the approval process.

There are several good legislative proposals out there on improving federal review process and rightly recognizing that the export of American commodities to allies and trading partners are inherently in the national interest due to the economic and geopolitical influence benefits they accrue. Whatever the ultimate legislative solution, Congress should fully remove the social media influencers from the decision chain and reassert American energy dominance.

ERASE BIDEN'S OIL & GAS LEASING MORATORIUM

Though the outgoing administration will crow that oil and gas production are at historic highs, this is in spite of, and not due to, federal policies. Production on state and private leases is leading the way, while federal production has been nearly static.

Since 2012, the amount of federal lands available for oil and gas production has dropped 34 percent, and the number of leases in effect by 26.5 percent. This is largely due to Obama-era monument designations and other ploys limiting access to federal lands, as well as a Biden "pause" (there's that word again!) on oil and gas leasing. Federal lands provide about a quarter of US oil production, and volumes produced have only risen slightly thanks to new production technologies.

In addition to the "pause," the Biden-Harris Administration has done everything it can to reduce the number of leasing opportunities onshore and off, increase taxes and fees on the sector, kill pipelines, limit the acres available for exploration and production, and support opponents of fossil fuel production with financing and training. They have even ignored statutes in which congress expressly required specific lease sales.

Green New Deal allies will also argue that oil and gas producers are not utilizing existing leases or that additional sales may be undersubscribed. This ignores the long lead times of capital investments in production, that bidding for leases is part of a speculative process and that not every investment will yield a gusher, and the Administration's own rhetoric, stated goals, and policies meant to limit growth and undercut existing market share for oil and gas. It is hard to be bullish on investments when the federal government has all but predetermined a supposed time of death for your industry.

The change in Washington coinciding with the 119th Congress can sweep those grey clouds aside in favor of animal spirits. The reconciliation process offers an opportunity to enact more leases to generate federal revenue and reduce the deficit, as was done with the Tax Cuts and Jobs Act (TCJA) in 2017.

However, we have now watched an administration ignore these directives, in violation of the law and at the expense of the taxpayers. While reconciliation is a good start, authorizing changes to the process of oil and gas leasing are also warranted. Well-intentioned negotiations around oil and gas leasing in exchange for reforms to the transmission approval process are a start. But this legislative language needs to have strict requirements on federal lessors and regulators to ensure that auctions and leases move forward as Congress intended. Broader permitting reform is also essential to ensuring that a partisan in the White House cannot undercut these public-private contracts through other policy levers.

If the oil and gas sector is going to continue to thrive, creating jobs and keeping a lid on fuel price inflation, there must be certainty in the leasing space. That will require more legislation than what is achievable solely through the reconciliation fast lane.

DON'T MAKE AMERICA BEND TO CALIFORNIA'S ELECTRIC VEHICLE MANDATES

Among those jockeying to lead the national Democratic party are California liberals failed presidential candidate Kamala Harris and sitting Governor Gavin Newsom.Their big problem is that Americans, already weary of inflation, look at California and don't like what they see.

Whether it is housing, groceries, or energy, California's prices are among the highest in the country and only going higher. California policymakers are doubling down on this doomed approach, even promulgating regulations they know will drive gas prices higher still and cost the average Californian an extra $1,000 per year in tax and regulatory costs. That inflation and the price of these essentials most significantly impact low- and middle-income households explains the aforementioned trend of these voting blocs shifting red.

Though California may always have an outsized influence on the national market due to the size of its economy and population (though the latter is shrinking, due at least in part to the aforementioned inflationary policies), it does not need assistance in doing so from Washington.

And yet, that is exactly what it has in Section 177 of the Clean Air Act. California promulgated air quality regulations before the enactment of the Clean Air Act Amendments of 1970, which we now think of as the modern Clean Air Act. Because of this, and California's chronic and continuing issues with smog, California was afforded a "waiver" process from federal requirements to ensure that it can maintain stricter standards on the transportation sector than the rest of the country. Seventeen other states and the District of Columbia, the so-called "Section 177" states, were allowed to follow California's regulatory standards by practice or by statute once California has received its waiver. These left-leaning states, combined with California, constitute approximately 52 percent of the total US population, 40 percent of the light-duty vehicle market, and 25 percent of the heavy-duty vehicle market. Since the other 177 states incorporate California's standards by reference, their electorates may not be aware that California is dictating their emissions standards.

The Trump Administration revoked California's Clean Air Act waiver, and therefore its authority to set its own standards and automatically implement their provisions in the other 177 states. Though it has not happened as of this writing, the Biden Administration is likely to approve California's Advanced Clean Cars II (ACC 2) standards for vehicles, as well as regulations on freight trains that will disrupt interstate commerce. The size of the Section 177 market makes these quasi-, if not de facto, standards for the rest of the country that have had no voice and are living in very different economic and geographic circumstances.

Bafflingly, the Biden Administration's rescission of the Trump Administration's revocation of the Obama Administration's granting (yes, it is that convoluted) of California's waiver was deemed by the Government Accountability Office (GAO) to not be a rulemaking exercise. This belated determination, taking about a year and a half to complete after a request from senators, scuttled efforts to even have a vote on this broad regulatory policy under the Congressional Review Act in the 117th and 118th Congresses. A similar logic will prevail with the reissuance of the waiver in the waning days of Biden-Harris.

The 119th Congress should put an end to this whiplash the old-fashioned way (with legislation) and repeal Section 177 of the Clean Air Act entirely. It is inappropriate for one state and other ideologically aligned states to impose their will on all Americans and undercut federal policy in a policy arena inseparable from implementing the Commerce Clause of the Constitution. This is doubly so when the state at the vanguard of this effort, consistently fails to meet even the federal standards for air quality. Sacramento must lose its right to dictate what cars Americans are allowed to buy and to sow regulatory uncertainty in Washington and beyond.

END ACTIVIST "SUE & SETTLE" & "CITIZEN LAWSUITS"

America's litigiousness has transformed from late-night show punchlines to an actual threat to the public welfare. Much has been made of so-called dark money, often attributed to industry, from those on and off Capitol Hill, all of whom have their own financial interests in the narrative (even if just to move books). Less noticed is that more fundraising, advertising buys, and influence is actually on the other side of the dark money ledger, from liberal activist groups and funding operations propping up entities to sue against policy changes and permitting decisions intended to facilitate the buildout of infrastructure in this country.

This phenomenon is not limited to high-profile fossil fuel pipelines. Litigants attack pretty much any project of sufficient scale to actually move the economic needle: onshore and offshore wind, carbon pipelines, road and bridge projects, solar farms, critical mineral mines, transmission lines, to name but a few. Litigation, particularly under the National Environmental Policy Act (NEPA) at best drag out the permitting process and raise the costs of doing business in the United States; at worst they kill infrastructure development that would improve people's lives and grow the economy. You know it is bad when just the threat of NEPA legal challenges to his beloved CHIPS Act and a proposed semiconductor fab in New York state prompted Chuck Schumer to sign off on an exemption for that industry from environmental reviews.

We will examine fixing litigation risk for permitting in the next section. For now, let us focus on one of the most pernicious forms of lawfare: "sue and settle." Though this process has been abused by administrations of both parties, its primary historical use is in allowing environmental nongovernmental organizations (eNGOs) to sue a federal agency in a like-minded White House in court citing some supposed failure of regulation. Having aligned policy priorities, the eNGO and the agency settle, and as part of the settlement the federal agency must rescind and/or revise a rulemaking. These rulemakings are often politically unpalatable, not backed by statutory authorization, or both. By having the courts mandate or implement the

terms of the settlement, the agencies avoid full political accountability to the public or to Congress. The rulemaking may even be subject to an expedited process under the Administrative Procedure Act due to a court mandate. These rulemakings grow government and impose additional costs and burdens on the private sector.

How do these eNGOs fund this activity? Through the aforementioned dark money, the occasional federal handout (as we have discussed are available from the IRA), fundraising on environmental issues through mailers and ad campaigns, and – perversely – by winning lawsuits. By suing everything that moves, some of the most prominent eNGOs in the country are hedging their bets. Project delays created in court suit their needs, win or lose. But even if they ultimately lose most of their legal challenges, those they win allow them to recoup legal fees from the taxpayer. Since the attorneys are often in-house, they can define what the hourly billable rate is. As long as it is not set so obscenely high the court feels compelled to intervene or respond favorably to a motion challenging the awarding of the fees, the eNGO can defray some of the costs of operating its litigation machine by effectively amortizing the cost of its many losses across its few wins.

***Congress can remedy these issues with a few key reforms.* People deserve their day in court and the three branches of government are co-equal, so the courts should be able to demand some remedies of federal agencies.**

However, not everyone who has an opinion about a public action deserves endless days in court. Limiting standing only to those directly impacted by a regulation or permitting decision is essential to cutting down on the number of lawsuits. Prohibiting settlements with the federal government from creating regulatory mandates would end sue-and-settle regulations. Only allowing the recuperation of legal fees to successful litigants that demonstrate an economic hardship would undercut the economics of the "carpet bombing" strategy of lawfare.

The trial bar and ivory tower environmental activists will wail and howl, and they have a great deal of money and influence to bring to bear. But at some point the interests of American workers and their families, the people (to paraphrase George Bailey from It's a Wonderful Life) that do most of the working and paying and living and dying in this country, should outweigh those making a living by clogging up the courts with frivolous or concocted lawsuits. Congress needs to take this issue on, and it will have benefits beyond even an all-of-the-above domestic energy sector to the entire economy.

FIX OUR BROKEN PERMITTING SYSTEM

Related to the issue of sue and settle is the interminable federal infrastructure permitting process, and the endless legal challenges that it encourages. For once, both political parties recognize that the broken federal permitting process is an impediment to energy development of all kinds, from conventional oil and gas to renewables like solar and wind, not to mention surface transportation, ports and levees, transmission lines, and many other forms of critical infrastructure, even if they have different ideas on how to achieve the reforms. Democrats are starting to appreciate the issue more now that IRA funding and tax expenditures are timing out before projects can even begin construction.

Addressing the issues with federal permitting holistically will cross the jurisdictions of several committees.

Starting with Senate Environment and Public Works (EPW) and the House Natural Resources (HNR) Committees, NEPA reform must be at the top of the list. What was intended as a procedural statute to ensure that federal agencies engaged in policies impacting human health and the environment conduct a review of those potential impacts in their decision-making processes has metastasized into the Hotel California of project permitting – sponsors get in, but can never get out. Agencies delay the start of the NEPA process as long as they can by encouraging data fetch quests and community outreach, and then when the process gets started it drags on and on. Some major projects, including for renewables, have taken more than 10 years to complete the Environmental Impact Statements or Environmental Analyses that are required to move forward.

Opponents of reform (i.e., those that profit from litigation and activist fundraising) will point out that most NEPA reviews result in findings of no significant impacts (FONSI) or narrower records of decision (ROD), and only a few projects suffer the headline delays (they will also deal in median lengths of time rather than average, to downplay the significance of these outliers). That is torturing the data until it confesses to what the groups want to hear. NEPA covers everything from the Forest Service having a road closure for a Fourth of July event to the construction of the Brent-Spence Bridge. The vast majority of federal actions fall in the former category. The few, multi-million- or billion-dollar projects that will actually move the economic needle invariably face years of NEPA-related delays, and conflating the two is intentionally disingenuous. We have seen that the marquee projects can be sued at multiple steps in

the permitting process, and lawsuits and federal agencies can even pull back issued permits (or even entire state primacy programs) after they have been granted.

NEPA is a short statute and an easy read. The expansive regulations laid down by the Carter Administration in 1978 transformed it into the minefield it is today, giving the Council on Environmental Quality the ability to bind agency actions and to invent the terms of art in which NEPA policymakers and project sponsors must now be versed.

The problem is, the statute never gave CEQ that broad authority – it merely plays a consulting role. The Court of Appeals for the District of Columbia has just given Congress a gift by finding that the NEPA emperor has no clothes and that CEQ has no binding regulatory authority under the statute. Though, as with most things NEPA, that is unlikely to be the end of the road in the courts, it is an opportunity to get out of thinking through potential reforms within the context of the CEQ regulations and terms themselves to fix what is broken with NEPA.

With that in mind, Congress should not negotiate with itself or elevate regulatory terms into the statute. Reforms should focus on reiterating the procedural nature of NEPA; limiting standing to those litigants that actually face imminent, likely, and irreparable harm from an agency action; limiting the timelines for legal challenges; and process improvements concerning the expansion of shared categorical exclusions, deadlines for agency actions, and empowering lead agencies to hold partner agencies to firm timelines or move on without them. Projects will still be bound by the actual requirements of other environmental statutes such as the Clean Air Act and the Endangered Species Act, and compliance with the terms of their permits under those statutes should act as further shield from frivolous lawsuits under NEPA claiming that a hypothetical issue was inadequately examined.

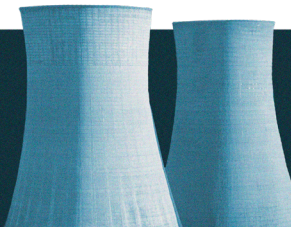
We are not so pollyannaish as to think these reforms to the authorizing statutes will be easy. However, via reconciliation Congress has the chance to give this concept a trial run. The IRA's breadth of programs and instructions demonstrates that a pilot program that generates revenues, likely through a fee for project applicants, would comply with the Byrd Rule test for reconciliation compliance in the Senate. EPW and HNR staff should draft such a pilot as a model for what a blank-sheet federal permitting process would look like. Limits to judicial review, waiving certain requirements that have been weaponized to block projects at the state level (e.g., Clean Water Act Section 401), and other concepts to reduce red tape should all be in play. Making the approach project-agnostic will demonstrate to reflexive opponents of NEPA reforms that the sky will not fall and some of their renewable projects also benefit from reform.

Beyond reconciliation, other policies that are ripe for reform and their committees of jurisdiction are:

- Limiting the timelines and scope of review of the state water quality certifications in the aforementioned Clean Water Act Section 401 process (EPW and House Transportation and Infrastructure);
- Requiring deadlines for Fish and Wildlife Service Biological Opinion reviews and Section 106 National Historic Preservation Act reviews that are used by other federal agencies (e.g., the US Army Corps of Engineers) to delay their own regulatory reviews (EPW and HNR);
- Reforming Clean Air Act New Source Review standards that prevent operators of existing facilities from expanding and revitalizing their operations to preserve jobs, create more employment opportunities, and improve efficiency, thereby reducing emissions (EPW and E&C);
- Codifying and making permanent the Nationwide Permits under the jurisdiction of the US Army Corps of Engineers (EPW and HNR);
- Categorical exclusions for certain linear infrastructure crossing federal public lands (Senate Energy and Natural Resources [ENR] and HNR); and
- Oversight and reform of the EPA's Risk Management Plan and chemical reviews under the Toxic Substances Control Act (TSCA) that are impeding both legacy and advanced manufacturing operations in the United States (EPW and E&C).

There are many more issues that need fixing, including prohibitions on preemptive or retroactive permitting vetoes by federal agencies across several jurisdictions.

But implementing this list would unshackle American innovation, create jobs, and reduce prices for consumers while having no deleterious effects on human health and the environment.



ACCELERATE NEW BREAKOUT TECHNOLOGIES

Much of the discussion about the future of domestic energy production and manufacturing seems predicated on playing on China's terms.

It is true that China is dominating fields like lithium-ion battery manufacturing and recycling and solar production. While the United States should maintain a foothold in these industries, we should be looking to what is next and where to head off China and other would-be competitors on breakout technologies, rather than trying to scrape out market share in sectors that are now incumbents. The added benefit is that a relatively modest investment in these breakout technologies through regulatory reform, targeted grants or loans, or tax incentives will likely have outsized returns for American taxpayers and the economy.

Artificial intelligence (AI) is leading this conversation and is bringing energy demand along with it. AI dominance is both an economic and national security imperative and if an artificial general intelligence (AGI) is feasible, it is in the world's interest that the US be the first to demonstrate it. Policymakers need to think about permitting issues for AI clusters and the infrastructure to feed their voracious demand for electricity, access to advanced chips (and keeping them out of the hands of adversaries), and cybersecurity policies that will keep adversaries from stealing American intellectual property in this sensitive arena. The regulatory structure for AI needs to foster continued private sector leadership as the scale of the investments and the ferocity of the competition exceeds the ability of any government to centrally plan how this competition will play out.

Similar breakouts for fusion and various designs of advanced nuclear reactors can reestablish US nuclear leadership, breakaway from uranium dependence on Russia, and head off China's emerging capacity in the nuclear reactor and fuels arena.

Exports of reactor designs bind client countries to the economies (and policy imperatives) of their providers. The US could be locking in these relationships for decades to come, but right now the Nuclear Regulatory Commission (NRC) is holding up companies' ability to demonstrate reactor designs and achieve licensure, the prerequisite for deployment domestically as well as abroad. Continued oversight and building upon the successes of the ADVANCE Act will be essential to ensuring that the NRC approve America's first new nuclear designs in decades.

Similarly, the Department of Energy and the Department of Defense need to work with the nuclear industry to provide access to enriched nuclear materials, to demonstrate their technologies, and build out the defense and civilian nuclear reactor manufacturing base. Privatizing or participating in private-public partnerships to revitalize Cold War-era nuclear processing and recycling assets, particularly to create domestics stocks of high-assay low enriched uranium (HALEU) will be key to ensuring that nuclear energy providers can not only get their designs approved by the NRC, but have the domestic fuel economy needed to get the successor units into commerce.

The United States is currently one of the worst countries in the world in terms of getting a mine proposed, permitted, and operational – 29 years from start to finish – second only to Zambia. For all of the technological and competitive breakthroughs above to happen, America must tap its significant reserves and downstream processing capacities for materials like copper, nickel, cobalt, lithium, graphite, boron,and rare earth elements to reduce our overwhelming dependence on China and Russia for these materials.

Potential breakouts in hydrogen and carbon capture, produced from abundant natural gas that can drive down costs compared to foreign competitors that lack these natural resources, can also be a "Swiss army knife" for reducing emissions and plugging any gaps in energy supplies, given broad applicability for these technologies across manufacturing, transportation, and commercial and residential energy use.

Other breakout technologies have not even been dreamt of yet. All of this demonstrates that America needs to recapture its place as the envy of the world for private sector competition, confidence in legal contracts, low regulation, and a tax-friendly environment. The government track record of predicting the "next big thing" is abysmal. While defending against competitors' illegal trade practices, policymakers should let private sector competition and the market decide who wins. Policymakers should simply create the legal and regulatory framework best suited to letting that competition happen and otherwise stay out of the way.

OVERTURN *MASSACHUSETTS V. EPA*

The Supreme Court has rightly been reevaluating decisions that expanded the authority of the courts and the regulatory state at the expense of Congress. Many of these decisions – *West Virginia v. EPA* on the "major questions" doctrine,

Loper Bright Enterprises v. Raimondo overturning "Chevron deference," and *Corner Post, Inc. v. the Board of Governors of the Federal Reserve System* on the statute of limitations to challenge federal regulations – will reverberate through the energy and environmental policy arena, with the effect of ensuring that Congress and not unelected bureaucrats determine policy imperatives.

Still looming out there from the "expansionist" era of the Supreme Court is the decision in *Massachusetts v. EPA* in which the Court, out of thin air (no pun intended), imposed upon the EPA the requirement to regulate carbon emissions. This resulted in the EPA's "endangerment finding" and similar to the CEQ's NEPA regulations of 1978, became the gospel of how the EPA addresses climate policy.

This all occurred without Congress designating carbon dioxide as a pollutant harmful to human health given its omnipresence in the environment. Indeed, the EPA has found it hard to regulate carbon dioxide emissions from most sectors. The most anti-growth environmental activists have called on the EPA to promulgate a primary or secondary National Ambient Air Quality Standards (NAAQS) to go after carbon dioxide directly or by proxy. The problem of course is that carbon dioxide naturally exists in the atmosphere, is not inherently a pollutant, does not harm human health at atmospheric concentrations, and the impacts of global climate change are just that – global and not local. So, any NAAQS could set an atmospheric concentration and immediately be irrelevant. Either the floor is too high and everyone is compliant. Or the ceiling is too low, and no one is compliant. The activists would prefer the latter, even if it caused economic self-immolation by shutting down American manufacturing.

This challenge is what happens when a federal court gets ahead of both Congress and public sentiment. Federal regulators suddenly find themselves charged to impose regulations without clear goals or appropriate tools for doing so, and the results of their "novel" thinking unnecessarily hurt people and the economy through higher costs, a lack of choice (e.g. only being able to buy electric vehicles), job losses, or foregone opportunities. Though the effects of carbon dioxide emissions are difficult, if not impossible, to calculate for an individual person, poverty has demonstrated links to poor health outcomes.

Overturning *Massachusetts v. EPA* via legislation in the wake of several other landmark cases that have further eroded its already dubious rationale will allow EPA to focus on the priorities that Congress has actually given it, and that it has serially failed to meet. That American households, workers, and businesses would benefit from this return to lawfulness makes it all the more essential.

FOCUS TRANSMISSION POLICY ON RELIABLE & AFFORDABLE ELECTRIC

Though not strictly a permitting issue, transmission policy has been elevated – particularly by progressives – as the greatest impediment to renewable energy development. As our discussions of permitting and litigation risk in this country demonstrate, transmission deployment is not the biggest challenge facing green energy. And the progressive advocates' proposed solution – trampling state authority over electric infrastructure siting and rate setting to allow more intermittent assets onto the grid – not only does a disservice to ratepayers, but socializes the cost of renewable boondoggles at the expense of electric reliability.

Transmission issues can be broken down into a few broad categories.

The first is the "interconnection queue" issue. The number of startups, the vast majority of which are in the renewable energy space, have applied for interconnection with regional transmission organizations (RTOs), the heavily regulated but private sector managers of regional electricity markets. This means significant delays in requests for connecting to the grid. Many of these startups lack transmission assets or contracts with utilities to actually deliver the power. They simply want to develop an asset, perhaps to pocket some funding or an investment tax credit – an issue intentionally supercharged by the IRA.

The simplest way to separate the developer contenders from the pretenders would be to raise the cost of application fees for interconnections, as well as to require some demonstration of how they propose to get the power to market. Sponsors of interstate pipelines under the Natural Gas Act, in order to receive a certificate of convenience, are required to demonstrate need – usually by securing contracts to offtake the gas. Something similar could be devised by the Federal Energy Regulatory Commission (FERC), as directed by Congress, to ensure that developers are not clogging up the queue just because of a surfeit of investment capital and federal incentives, but are actually viable projects putting their money where their mouth is.

The second category concerns cost allocation for interstate transmission lines. The same activists that want to ensure that New York has state primacy to embargo American natural gas reaching New England, have no issue with telling a state like Ohio that it should be required to have transmission lines traverse it – even if no one in Ohio takes

an electron off, or adds one to, that line. By requiring these "transit" states to bear some of the costs of these new proposed interstate transmission lines – which disproportionately benefit renewable energy moving wind or solar from one area of the country to another – the costs of a green transformation are socialized. FERC initially proposed to usurp state authorities here, but walked it back in its recent final order thanks to pressure from conservative Commissioner Mark Christie.

The third category, related to the second, is authority over siting of the actual transmission infrastructure. As with rate setting, this is primarily the purview of state utility commissioners. In most states, these commissioners are elected and therefore sensitive to the interests of their voters. Renewable energy activists would propose seizing this authority and allowing FERC or another entity to mandate both rate and siting decisions on states, either immediately or after a time-limited state review, based on vaguely defined benefits (Senator Manchin's transmission legislation defines benefits for "grid reliability" extremely broadly, including simply adding renewables to the grid for euphemistic "resource diversification").

Creating a fast lane for adding renewables to the grid, particularly one that tramples state's rights and raises costs on consumers – even those that do not use the infrastructure – imperils electric reliability and affordability when we can least afford it. Electricity demand is forecasted to increase rapidly for the foreseeable future, and many of the industries reliant upon it – such as manufacturing or data centers – need rates to be reliable and supply to be uninterrupted. Renewables can provide neither of those benefits. Distortionary policies like tax incentives allow renewables to undercut reliable baseload generators – like coal, natural gas, nuclear, and even hydropower – in both the spot and capacity markets.

Congressional policymakers need to consider the importance of reliable and affordable electricity to the American way of life and our future prosperity, then work backward to identify the appropriate policies to ensure their availability. The electric grid we have now needs upgrades and expansion, and federal regulations can shape these efforts, but the grid was not the product of central planning in Washington. Future improvements cannot be either. Before any grand bargain is made on transmission policy that could upend the cooperative federalist balance, the trade must be for policies that ensure reliability and affordability. Permitting, reforms to other federalist policies that blunt infrastructure development (e.g., Clean Water Act section 401), and clearing other hurdles to truly competitive electric markets must be considered before the transmission bargaining chip is given away.

ELIMINATE THE CIVILIAN CLIMATE CORPS & FEDERAL AGENCY CLIMATE OFFICES

Green New Dealers in Congress and the Biden-Harris Administration have established outposts proselytizing their doomsday climate crisis dogma at agencies across the federal government – far beyond those that actually have environmental mandates (and for which Congress has repeatedly declined to grant the authority to regulate carbon emissions). Beyond the federal government, they have also used taxpayer dollars to stand up a fifth column of climate activists. Both efforts are prime targets for elimination that can shrink the federal footprint, cut millions in spending, and reduce the red tape and litigation risk for policies impacting everything from healthcare to national defense.

In his sweeping Executive Order 14008 on "Tackling the Climate Crisis at Home and Abroad," President Biden imposed climate obligations on nearly every federal agency you could name offhand. Beyond the agencies you would expect – EPA, DOE, even the National Oceanic and Atmospheric Administration (NOAA) – comes a laundry list of departments, independent agencies, and offices of the White House: Defense, the Joint Chiefs of Staff, Justice, Interior, Agriculture, Commerce, Labor, Health and Human Services, Housing and Urban Development, Transportation, Homeland Security, General Services Administration, the Council on Environmental Quality, the Office of Management and Budget, the Office of Science and Technology Policy, myriad Presidential Assistants, and – of course – the newly created and vaguely defined National Climate Advisor.

The agencies heeded the President's call that they, "to the extent permitted by law . . . prioritize action on climate change in their policy-making and budget processes, in their contracting and procurement, and in their engagement with State, local, Tribal, and territorial governments; workers and communities; and leaders across all the sectors of our economy." According to Columbia University researchers, at least 23 federal agencies have drafted climate policy plans, euphemistically named "adaptation and resilience" policies.

The plain reading of this sweeping climate prioritization mandate – and the fact that it appears to have been faithfully implemented across the Biden-Harris Administration – is farcical. The Department of Defense and the Joint Chiefs are charged with providing an annual report on how they are implementing the considerations of climate catastrophe to make a better future for the child of that terrorist they just eliminated… in their other reports and documents.

Homeland Security gets to do the same, rather than actually securing our borders – an issue that we seem to recall coming up in the recent election. Perhaps they can just stack hard copies of their report at the border to complete the wall.

Is your grandmother having trouble with her Medicare? Sorry that Health and Human Services was not answering her phone calls – they were instead answering the President's call to establish an Office of Climate Change and Health Equity.

The comedy of errors goes on and on, but is devoid of laughs because of what it means for our society. At a time when only 22% of Americans trust the federal government to do "what is right" always or even just "most of the time," having agencies focus on climate issues beyond their jurisdictions, their core missions, and their ability to even influence outcomes only further undermines public confidence. Meanwhile 85% of Americans agree that the federal government is "wasteful" and 66% believe it is "incompetent." Finally, the 2024 election betrayed that there is no such thing as a "climate voter."

Since most of these policies were directed by the White House without authorization or appropriations from Congress, incoming President Trump can sweep most of them aside with the stroke of a pen. However, unwinding the infrastructure, reassigning the personnel, and refocusing the missions of the plethora of climate offices across the federal government will take time and consume scarce resources. To prevent a recurrence, Congress should – whether in authorizing statutes or riders in the appropriations process – seek to prevent any recurrence in the future. That would go a long way in answering the calls of voters who are more worried about federal incompetence and overspending than distant hypothetical climate events.

Beyond these agencies, the Biden-Harris Administration also created the quasi-federal Civilian Climate Corps. Not satisfied with merely coopting Franklin Delano Roosevelt's "New Deal" branding, the Green New Deal crowd also usurped the name of his Civilian Conservation Corps (CCC) jobs program from the depths of the Great Depression. The effectiveness and lawfulness of that original mass employment initiative in responding to the economic destruction of the 1930s is beyond the scope of this roadmap, but remains controversial. Despite any disagreements over its economic efficiency, we can all agree that the legacy of those American workers' labors remains evident all around us in public buildings, roads, bridges, and forest management initiatives – particularly across our public lands.

Ironically, the Green New Dealers would actually oppose the construction of that kind of infrastructure or the thinning of overgrown forests to prevent fires, as evidenced by the litigious groups that support it. Also, for what it is worth, Green New Deal proponents claim the CCC "perpetuated white supremacy." So it feels doubly insulting to the legacy of the original CCC that the Civilian Climate Corps has coopted its name and branding.

Executive Order 14008 required that the Secretary of Interior, the Secretary of Agriculture, and "other relevant agencies" establish the new Civilian Climate Corps. Though President Biden requested as much as $8 billion to fund this new initiative to draft 50,000 young Americans into the war on the atmosphere, Congress was not compliant. Instead, using funding appropriated for other purposes, in 2023 the Biden Administration announced the rebranded "American Climate Corps," with the goal of putting 20,000 young Americans in jobs less about actually reducing greenhouse gas concentrations than doing academic research, being indoctrinated, or becoming themselves the indoctrinators of the next generation of environmental advocates.

Even more than a year later, the website is still in beta. Rather than the $30 billion Civilian Climate Corps of Rep. Alexandria Ocasio-Cortez and Senator Ed Markey's socialized dreams, the result is more of a poor man's Indeed.com for progressives fresh out of college. Despite promises of EO 14008 that the Corps would "maximize the creation of accessible training opportunities and good jobs," many of the postings pay as little as $8 per hour in high-cost states like California for vague assignments that sound like glorified weed-pulling. Pretty rich – actually, not rich – coming from a President who called for a $15 federal minimum wage.

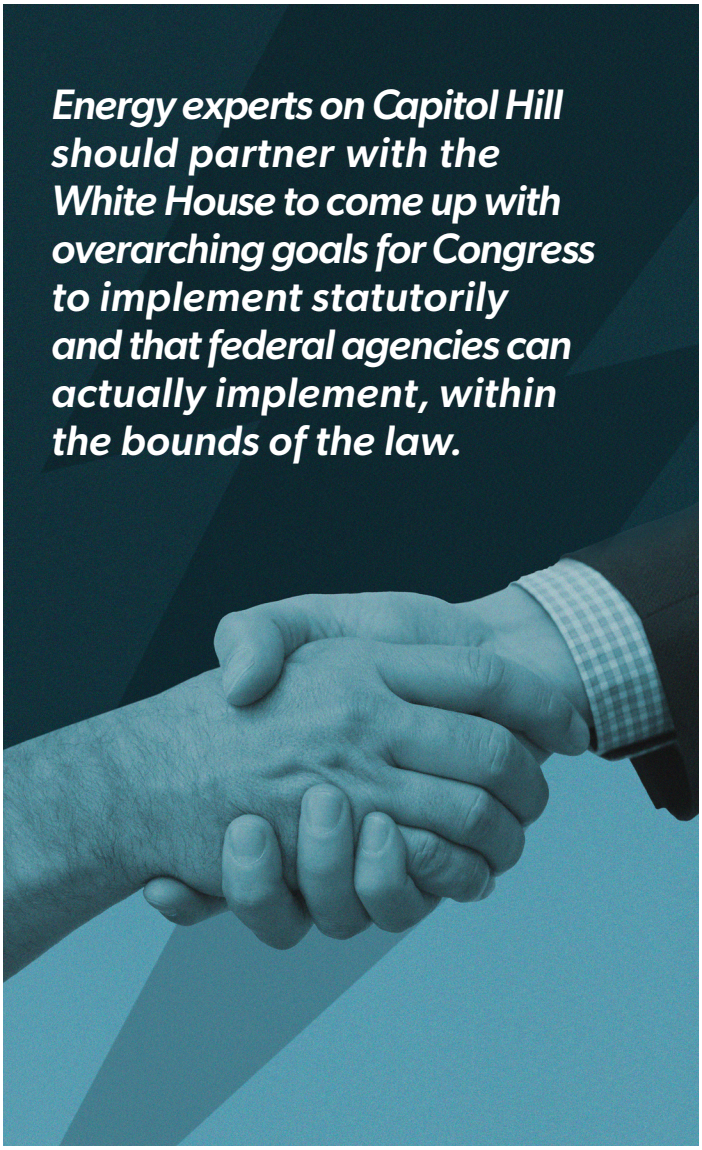
If that was not bad enough, in September 2024 the Biden-Harris Administration doubled down, announcing the joint EPA-AmeriCorps Environmental Justice Climate Corps. How the opportunities with this new entity meaningfully differ is anyone's guess. The press release calls out other related initiatives at other federal departments. The entire effort calls to mind the Department of Redundancy Department.

Congress could do the American people a favor and eliminate all of these programs now and prevent their recurrence in the future through legislation. If elected policymakers want to reduce carbon concentrations in the atmosphere, whether a worthwhile public expenditure or not, there have to be better ways of achieving that goal than pitting the federal government against the private sector in the prime working age labor market at taxpayers' expense.

CONCLUSION: ACTUALLY COME UP WITH AN AMERICAN ENERGY POLICY

Perhaps the most challenging aspect of American energy policy is that there is no policy. The United States has never laid out an overarching strategy for its energy goals other than vague bromides about energy independence, efficiency, or production. As energy and environmental issues are at the vanguard of both domestic and international economic prosperity and security, American policymakers have a renewed opportunity to define our priorities and then deliver upon them.

The creation of the new National Energy Council, convening relevant Cabinet departments like Interior, Energy, and the EPA, can be a promising new start as long as it does not simply become another layer of bureaucracy thrust atop those we already have.



Here are some overarching suggestions for an American Energy Policy or even an Energy Bill of Rights:

- Do no harm to Americans wallets or livelihoods.
  This would seem to be obvious, especially after the inflation-infused election we just had. But energy is a top line item in nearly every American household budget. Keeping it affordable aligns with the constitutional imperative of ensuring the common welfare.

- Keep the lights on.
  Reliability is the difference between a first world economy and a third world economy in which controlled or uncontrolled rolling blackouts disrupt business operations and people's personal lives. Unreliable energy imperils not only the economy, but our health and life expectancies.

- Be truly all-of-the-above.
  Many of the imbalances in our energy markets are based on structure and permanent incentives for favored industries. Energy is too important to be a lab |experiment – let the market decide. To the extent the federal government supports one technology or another, it should only be in the nascent developmental phase. No more distortionary entitlements for renewables through the tax code.

- We must build out domestic capacity.
  From commodities like oil and gas, to critical minerals, to processing and recycling capacity, to advanced metallurgy, to the construction of advanced technologies like carbon capture and small modular reactors, America needs to lead in energy production and manufacturing capacity. The era of great power competition with the likes of China and Russia is back, and American dependence on foreign entities for any of the key elements in our energy supply chain endangers our safety and prosperity.

- American energy exports are in the national interest.
  By a similar logic, our energy policy is a geostrategic tool. America's energy potential is not zero-sum. With the right policies encouraging the use of our natural resources, we can not only meet growing domestic demand far into the future, but also share our energy bounty with the world. This is not only good for our economy, but a national security imperative.

These are but a few of the guiding principles our policymakers will need to tangle with. They all align with the more specific measures outlined in this Roadmap. The American people have spoken loud and clear on the need to get inflation under control and to grow wages faster than prices. This starts with ensuring energy affordability and access for all. The 119th Congress has a unique window in time to deliver on this mandate. Let's hit the ground running.