

# BACKGROUND

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## Energy Policy Agenda for the Next Administration and Congress

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### Abstract

*Free markets will produce the energy America needs to power its economy. Government policies that allow markets to operate freely will expand opportunity for all and show favoritism to none. There is no role for government central planning, government subsidies for the favored few, or government overregulation that stifles economic activity. The next Administration and Congress should open access to natural resource development, encourage fossil fuel exports, cut tariffs on energy technology, eliminate subsidies, devolve commercial activities to the private sector, and eliminate costly, job-killing regulations that have little benefit.*

Energy policy will be a critical component of the agenda of the next Administration and Congress. Such an agenda should address, among other things, the Keystone XL and other pipelines, nuclear energy, renewable energy, climate change, offshore drilling, hydraulic fracturing and other energy technologies, energy exports, and more.

A successful energy agenda would unleash energy enterprise. Such an agenda would not involve government central planning, quotas, subsidies, or other interference with the effective operation of a free market in energy. Such an agenda would help provide opportunity for all and favoritism to none.

When free enterprise operates, resource extraction and development expands greatly, and innovative technologies generate new opportunities, creating jobs and stimulating the economy in the process. On the other hand, when policymakers try to promote or prohibit specific energy sources and technologies, the

### KEY POINTS

- Energy touches every aspect of American life. Establishing an energy agenda that provides choices and competition would only improve American well-being.
- Policies that operate from the four pillars of economic freedom—rule of law, limited government, regulatory efficiency, and open markets—will stimulate economic growth and innovation, expand access to energy, and improve the environment.
- Central planning, quotas, and incentives are poor energy policy because they waste taxpayer dollars and divert resources away from more economically promising projects to politically preferred energy options.
- The next Administration should pursue three fundamental energy policy objectives: establish open markets, eliminate favoritism, and reduce the regulatory burden.

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federal government wastes taxpayer dollars, delays or blocks promising energy development, and shifts resources to politically preferred sectors of the economy as opposed to the most economically viable sectors. America needs policies that open access to markets, eliminate preferential treatment for all energy sources, and reduce the regulatory burden that chokes investment and innovation.

### Energy Policy Matters

Americans undoubtedly take access to affordable, reliable energy for granted. Turning on the light switch or filling up a car with gasoline is second nature. Temporary power outages cause a great deal of frustration for families and businesses. Much worse, Americans realize the importance of reliable energy when a major natural disaster hits and they cannot power their schools and hospitals, keep their food from spoiling, or heat or cool their homes.

Energy touches every aspect of their lives, from providing a daily sense of comfort to powering the global economy. Therefore, having an energy platform that provides choices at competitive prices will only enhance the well-being of families and businesses across the country.

Policies that operate from the four pillars of economic freedom—rule of law, limited government, regulatory efficiency, and open markets—will do more than stimulate economic growth and innovation. They will expand access to energy and improve the environment. The United States has shown what can happen with open access to resources, private property rights, and opportunities for domestic and foreign investment. Within the broad scope of economic freedom, the next Administration should pursue three fundamental objectives in energy policy: establishing open markets, eliminating favoritism, and reducing the regulatory burden.

### Open Access to Opportunities

America is the land of opportunity. With the abundance of resources beneath U.S. soil, the land is literally an opportunity. America has an abundance of natural resources, including sufficient energy reserves to provide Americans with affordable, reliable energy for several centuries. With its plentiful

reserves of coal, natural gas, uranium, and oil, the United States is already a global leader in energy production. Regrettably, the federal government prohibits resource development in many parts of the country and off its coasts. Opening access begins with providing the opportunity for companies to develop America's resources, whether conventional sources of energy, minerals, or wind or solar power.

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Open access, however, is not only good for domestic markets. It includes empowering energy enterprises to capture opportunities abroad. Borders should not dictate whether or not an individual can sell a product. Nor should borders result in individuals paying artificially higher prices for goods in the form of tariffs. Yet laws can restrict opportunities, whether prohibitions on exporting crude oil or tariffs on solar technology. Freely importing and exporting energy and energy technologies would yield tremendous economic benefits, providing Americans with more opportunities to sell products to more customers and to buy cheaper goods and services from abroad.

Specifically, the next Administration should:

- **Open access to natural resource development.** The next Administration should open all federal waters and federal lands that are not part of the national park system or congressionally designated areas to exploration and production for all of America's natural resources. Congress should require the Department of the Interior to conduct lease sales if a commercial interest exists whether for offshore oil or offshore wind. Congress should also force the Interior Department to use its flexibility under its current authority to attract interest to federal lands, such as streamlining of red tape or reducing royalties.<sup>1</sup>

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1. Nicolas D. Loris, "What Contributes to Gas Prices and Solutions to Help," Heritage Foundation *Backgrounder* No. 2949, September 14, 2014, <http://www.heritage.org/research/reports/2014/09/what-contributes-to-gas-prices-and-solutions-to-help>.

Ideally, states should be given charge of managing resource development within their boundaries and off their shores.

- **Lift the ban on crude oil exports.** The Department of Commerce should change the definition of allowable exports, and the President should determine that exports are in the national interest. Ultimately, Congress should end the ban by reforming the relevant provisions of the Mineral Leasing Act of 1920, the Energy Policy and Conservation Act of 1975, and the Export Administration Act of 1979.<sup>2</sup>
- **Remove impediments to liquefied natural gas (LNG) exports.** Currently, companies must obtain approval from both the Federal Energy Regulatory Commission and the Department of Energy (DOE) before exporting natural gas. A facility is automatically authorized if the recipient country has a free trade agreement (FTA) with the U.S. In the absence of an FTA, the DOE can arbitrarily deny a permit if it believes the volume of natural gas exports is not in the public's interest.<sup>3</sup> The decision to export natural gas should be a business decision, not a political one. The U.S. trades regularly with a number of non-FTA countries, and natural gas should be treated like any other globally traded good.
- **End government-imposed threats to coal exports.** Coal export terminals should go through the proper environmental review and permitting stage, but opponents of coal production want the Army Corps of Engineers to consider a cumulative, programmatic environmental impact statement (EIS). This comprehensive review would assess the environmental impacts and greenhouse gas emissions not only from the actual terminal, but also from the mining, rail transportation to the terminal, and end use of

the coal. Adding these extra layers of regulatory review would create more fodder for groups that want the coal to stay in the ground, and it sets a dangerous precedent for exports of goods and services that environmental activists feel have too large of an environmental footprint. The next Administration should prohibit agencies from conducting cumulative EISs.<sup>4</sup>

- **Remove import tariffs on energy technologies.** The Obama Administration has operated in a way that forces the replacement of conventional energy sources with renewable energy sources. As arbitrary and economically unsound as this goal is, the Administration counterintuitively is making renewable power more expensive by placing high tariffs on imported solar parts to protect U.S. manufacturers from foreign competition. Protecting domestic manufacturers will only keep prices higher, ensuring that the technology is less competitive and reducing the incentives for domestic manufacturers to innovate and lower their costs. While the U.S. has antidumping provisions to protect against “unfairly low” prices, “antidumping laws are confusing and arbitrary, and in many instances merely allow American firms to secure punitive tariffs against competing importers where no unfair trade practices are involved. Worse, these laws drive up the costs of imported components used by other American enterprises, making their products less competitive in world markets.”<sup>5</sup> The next Administration should eliminate government-created market distortions that drive up costs for alternative energy sources and modernize antidumping laws to allow Americans to take full advantage of the increasingly interconnected global economy.<sup>6</sup>
- **Open access to America's national laboratories.** Advocates of government spending on technology-specific activities tout the federal

2. Nicolas D. Loris, “Energy Exports Promote Prosperity and Bolster National Security,” Heritage Foundation *Background* No. 2931, July 23, 2014, <http://www.heritage.org/research/reports/2014/07/energy-exports-promote-prosperity-and-bolster-national-security>.

3. *Ibid.*

4. *Ibid.*

5. Bryan T. Johnson, “A Guide to Antidumping Laws: America's Unfair Trade Practice,” Heritage Foundation *Background* No. 906, July 21, 1992, <http://www.heritage.org/research/reports/1992/07/bg906nbsp-a-guide-to-antidumping-laws>.

6. Alden F. Abbot, “U.S. Antidumping Law Needs a Dose of Free-Market Competition,” Heritage Foundation *Background* No. 3030, July 17, 2015, <http://www.heritage.org/research/reports/2015/07/us-antidumping-law-needs-a-dose-of-free-market-competition>.

government's involvement in commercial successes, such as the Internet, computer chips, and the Global Positioning System (GPS). Yet none of these were initially intended to meet a commercial demand; they were developed for national security purposes. Entrepreneurs saw an opportunity in these defense technologies and created the commercially viable products that are available today. The DOE's role, through its system of national laboratories and scientific research facilities, should be to conduct the basic research to meet national objectives that the private sector would not undertake. The DOE should also create a system that allows the private sector, using private funds, to tap into that research and commercialize it. Federal labs should allow basic research to reach the market organically. The next Administration should establish a more effective management structure for America's national laboratories to work with industry while protecting taxpayer money and the labs' ability to conduct the basic research necessary for the federal government.<sup>7</sup>

- **Allow all energy projects to form master limited partnerships.** Master limited partnerships (MLPs) are taxed as limited partnerships, but are publicly traded on 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. Other renewable energy generation and commercial nuclear activities do not qualify. The next Administration should end the practice of using the tax code to pick winners and losers.<sup>8</sup>
- **Complete licensing for Yucca Mountain.** Any sustainable, long-term solution for nuclear waste management requires geologic storage. Taxpayers and electricity rate payers have spent more than \$15 billion on the Yucca Mountain site, and

no technical or scientific evidence has yet disqualified it as a viable option. The next Administration should direct the Nuclear Regulatory Commission to complete its review of the permit application and transition to a more market-based approach.<sup>9</sup>

### **Eliminate Government Favoritism**

In public policy, favoritism in the energy sector takes many forms. Over the years Congress has implemented numerous policies that use the political process to support the production or consumption of one good over another, including direct cash grants, special tax treatment, taxpayer-backed loans and loan guarantees, socialized risk through insurance programs, mandates to produce biofuels, tariffs, and energy sales at below-market costs. Whatever shape the favoritism takes, the results are the always the same: The government delivers benefits to a small, select group and spreads the costs across families and consumers.

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Whether a subsidized company goes bankrupt or becomes a huge success, special treatment that benefits one subset of the economy is a waste of taxpayer dollars. The government has repeatedly demonstrated its ineptitude as an investor, losing billions of dollars in bad bets such as the now defunct solar manufacturer Solyndra and battery manufacturer A123 Systems. Yet even if a project receives government investment and remains profitable, attributing that company's success to the federal government's investment is a mistake. In these instances, the taxpayer dollars have

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7. Nicolas D. Loris, "INNOVATES Act Creates a More Effective National Lab System," Heritage Foundation *Issue Brief* No. 4141, January 30, 2014, <http://www.heritage.org/research/reports/2014/01/innovates-act-technology-development-and-effective-national-lab-system>.

8. Nicolas D. Loris, "Master Limited Partnerships and Renewable Energy Producers," Heritage Foundation *Issue Brief* No. 3922, April 24, 2013, <http://www.heritage.org/research/reports/2013/04/master-limited-partnerships-and-renewable-energy-producers>.

9. Jack Spencer, "Blue Ribbon Commission on Nuclear Waste: Missing Opportunity for Lasting Reform," Heritage Foundation *Background* No. 2600, August 22, 2011, <http://www.heritage.org/research/reports/2011/08/blue-ribbon-commission-on-nuclear-waste-missing-opportunity-for-lasting-reform>.

offset private-sector investments that would have been made without the government's help, and the program is nothing more than corporate welfare.

The economic pain cuts deeper than wasted taxpayer money because government interventions distort free enterprise, create government dependence, and allow Washington to direct the flow of private-sector investments. The number of investment opportunities is broad and expansive, but the available capital is limited. Of course, investors must choose among the different projects, but government favoritism diverts limited capital by dictating who should receive it by extending the confidence of the government through a subsidy to a politically favored technology or company. For instance, private investors sank \$1.1 billion into Solyndra. Much of the private financing came after the Department of Energy announced that Solyndra was one of 16 companies eligible for a loan guarantee in 2007. That \$1.1 billion could have been invested elsewhere in the economy.

Perhaps more perverse is that these subsidies significantly obstruct the long-term success and viability of the very technologies and energy sources that they were intended to promote. Instead of relying on a process that rewards competition, taxpayer subsidies prevent a company from truly understanding the price point at which the technology will be economically viable. When the government plays favorites, it traps valuable resources in unproductive places. Companies will plead for "business certainty" when asking for special tax treatment or subsidies, but the political process of picking winners creates dependence, not certainty. True business certainty will occur when America ends federal policies that subsidize and mandate specific energy sources and technologies.

Specifically, the next Administration should:

- **Prohibit any new funding.** The next Administration should make clear that no taxpayer dollars will go directly to energy production, storage,

efficiency, infrastructure, or transportation for nongovernment consumers, including the extension of existing programs. A market-based energy sector would benefit consumers by delivering reliable, affordable energy while eliminating government favoritism to special interests.<sup>10</sup>

- **Expedite the sunset of targeted tax credits for all energy sources and technologies.**

Special tax treatment serves the same purpose as a subsidy that favors one industry. Congress should not create any new tax credits for energy production, energy infrastructure, transportation production and consumption, or energy-efficiency initiatives. Congress should expedite the sunset of existing tax credits and reduce taxes by the amount of revenue generated by eliminating the tax credits.<sup>11</sup>

- **Repeal the Renewable Fuel Standard (RFS).**

By requiring fuel blenders to use biofuels regardless of the cost, the RFS has made most Americans worse off through higher food and fuel expenses. The higher costs paid by American families benefit a select group of special interests that produce renewable fuels. Tinkering around the edges will not fix this unworkable policy. Moreover, the federal government should not mandate which type of fuel drivers use in the first place. Congress should repeal the RFS.<sup>12</sup>

- **End renewable energy mandates in the Department of Defense.**

In particular, under Section 2911(e) of Title 10 of the U.S. Code, the Defense Department is obligated to generate 25 percent of its electricity using renewable sources by 2025. This mandate is forcing the Pentagon to expend increasingly scarce resources on renewable energy rather than on military capability. Congress should end it immediately. Such mandates undermine the incentive for renewable

10. Nicolas D. Loris, "No More Energy Subsidies: Prevent the New, Repeal the Old," Heritage Foundation *Backgrounders* No. 2587, July 26, 2011, <http://www.heritage.org/research/reports/2011/07/no-more-energy-subsidies-prevent-the-new-repeal-the-old>.

11. *Ibid.*

12. David W. Kreutzer, "Renewable Fuel Standard, Ethanol Use, and Corn Prices," Heritage Foundation *Backgrounders* No. 2727, September 17, 2012, <http://www.heritage.org/research/reports/2012/09/the-renewable-fuel-standard-ethanol-use-and-corn-prices>.



energy producers to develop competitively priced products, thereby actually impeding the availability of alternatives to carbon-based fuels.<sup>13</sup> Forcing the military to purchase more expensive alternatives leaves fewer resources for training, modernization, and recapitalization, resulting in a less capable military.<sup>14</sup> The federal government should ensure that energy programs for defense applications prioritize national security requirements over political interests. The Pentagon should pursue alternative energy sources (or any energy source) only if they increase capabilities or reduce costs without sacrificing performance.

- **Repeal the Jones Act.** Enacted nearly a century ago, the Jones Act mandates that any goods shipped by water between two points in the United States must be transported on a U.S.-built, U.S.-flagged vessel with a crew that is at least 75 percent American. By preventing foreign competition, the Jones Act significantly increases domestic maritime shipping prices to the benefit of the American shipping industry, driving up costs for American businesses and consumers.<sup>15</sup>
- **Ensure no DOE funding goes toward commercializing energy technologies.** For far too long, the Department of Energy has attempted to use taxpayer money to drive technologies to the market, crippling the role of entrepreneurs and wasting billions of taxpayer dollars in the process. The rationale for these initiatives is that a gap exists between basic research and economic viability and that spending more taxpayer money will attract private investment for commercialization. However, when the government attempts to drive technological commercialization, it circumvents the competitive process that properly

assigns risks and rewards in an open market. By diverting capital from the private sector to government-supported projects, this intervention also creates a dependency on the taxpayer that can hinder innovation over the long term. Basic research with a promising commercial application will attract private investment. Some investments will succeed, and others will fail. Other research will not ultimately spin off into market successes. Using taxpayer dollars to force commercialization is wasteful and disregards how markets and private investment more efficiently determine how best to allocate investments.<sup>16</sup>

- **Restructure public power and bring the Tennessee Valley Authority under the rigors of market forces and public utility regulation.** Four federal utilities known as Power Marketing Administrations were set up to provide cheap electricity to rural areas. They can sell electricity at below-market rates because of their favorable financing terms, such as federal tax exemptions and loans at below-market interest rates. Their construction, rehabilitation, operation, and maintenance costs are financed through the main Department of Energy budget, offset collections, alternative financing, and a reimbursable agreement with the Bureau of Reclamation. Furthermore, rural electric cooperatives (RECs), which are private, often nonprofit organizations, account for about 12 percent of the nation's electricity sales. RECs receive special tax exemptions and low-interest loans from the government. Congress should end the privileges for federal utilities, municipal power companies, and electricity cooperatives and ultimately sell the Power Marketing Administrations to private buyers.<sup>17</sup>

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13. Jack Spencer, "Capability, Not Politics, Should Drive DOD Energy Research," Heritage Foundation *WebMemo* No. 3299, June 22, 2011, <http://www.heritage.org/research/reports/2011/06/capability-not-politics-should-drive-dod-energy-research>.

14. *Ibid.*

15. Brian Slattery, Bryan Riley, and Nicolas D. Loris, "Sink the Jones Act: Restoring America's Competitive Advantage in Maritime-Related Industries," Heritage Foundation *Backgrounder* No. 2886, May 22, 2014, <http://www.heritage.org/research/reports/2014/05/sink-the-jones-act-restoring-americas-competitive-advantage-in-maritime-related-industries>.

16. Nicolas D. Loris, "Department of Energy Budget Cuts: Time to End the Hidden Green Stimulus," Heritage Foundation *Backgrounder* No. 2668, March 23, 2012, <http://www.heritage.org/research/reports/2012/03/department-of-energy-budget-cuts-time-to-end-the-hidden-green-stimulus>.

17. Ken G. Glozer, "Time for the Sun to Set on the Tennessee Valley Authority," Heritage Foundation *Backgrounder* No. 2904, May 5, 2014, <http://www.heritage.org/research/reports/2014/05/time-for-the-sun-to-set-on-the-tennessee-valley-authority>.

- **Restructure socialized insurance and risk mitigation for energy projects.** Several government programs offer liability insurance schemes for specific industries. Proponents usually argue that these programs support industries that are vital to the national interest, but are so high-risk that they would be unprofitable without subsidies. Two examples are the \$75 million liability cap for offshore oil and gas operations and the Price-Anderson Act of 1957, which provides a liability regime for the nuclear industry that extends through 2025. The free-market solution is generally to eliminate these subsidies, but given the broken tort system and increasingly onerous federal regulation, these subsidies often offset government-created risks. Any discussion of ending liability insurance subsidies should include proposals to ease the regulatory burden on the affected industry.<sup>18</sup>

### Reduce the Regulatory Burden

Regulatory reform does not mean a world without regulations. Instead, the next Administration should address pressing fundamental problems in the current regulatory state. Too many regulations are written on the premise that any amount of risk is too much. Regulatory agencies commonly underestimate or ignore costs, exaggerate environmental benefits, and push constitutional boundaries. Agencies increase the stringency of existing regulations that produce minimal if any environmental benefits. Agencies also use the regulatory process to micro-manage customer choices, from the energy efficiency of microwaves to fuel efficiency mandates.

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The next Administration should also recognize that state and local governments are closer to most environmental issues than Washington and can

more effectively promote environmental protection and economic growth. Federal ownership and federal regulation of public lands restrict economic activity and often have created environmental problems due to mismanaged lands and lack of a proper incentive structure to maintain the properties. States, local governments, and individuals are the best arbiters of how to manage land, and the federal government should explore opportunities to privatize land. New leadership should shift the regulatory authority to the states for land use and environmental protection.

The next Administration should:

- **Reduce regulatory burdens where costs overwhelmingly outweigh the direct environmental benefits.** The biggest threat to affordable, reliable energy in the United States is the current onslaught of regulations implemented by unelected bureaucrats under the guise of protecting the environment. Proposed and newly implemented regulations affecting current and future power generation will drive up energy costs for Americans and business owners, destroy jobs, and do little to protect the environment. In fact, the regulations will drive up the costs of goods and services that promote public health, such as access to affordable heating and air conditioning, and divert resources away from activities that could truly improve America's public health.
- **Stop climate regulations that have almost no impact on temperature.** The Obama Administration has proposed and implemented a series of climate change regulations, pushing to reduce greenhouse gas emissions from vehicles, heavy-duty trucks, airplanes, hydraulic fracturing, and new and existing power plants. Since conventional carbon-based fuels provide more than 80 percent of America's energy, these restrictions on using abundant, affordable energy sources will only inflict economic pain on households and businesses. They will produce no discernable climate benefit, at the cost of hundreds of thousands of jobs and trillions of dollars of gross domestic product. The next Administration should order

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18. For a comprehensive solution to offshore oil spill liability, see Nicolas D. Loris, Jack Spencer, and James Jay Carafano, "Oil Spill Liability: A Plan for Reform," Heritage Foundation *Background* No. 2446, August 2, 2010, <http://www.heritage.org/research/reports/2010/08/oil-spill-liability-a-plan-for-reform>.

the Environmental Protection Agency (EPA) to withdraw its endangerment finding on greenhouse gas emissions, recognizing that greenhouse gas emissions are affecting the climate, but that no credible evidence suggests that the earth is heading toward catastrophic warming or that climate regulations will affect global temperatures. The next President should prohibit all federal agencies from regulating greenhouse gas emissions.<sup>19</sup>

- **End use of the social cost of carbon.** The EPA is using three statistical models, known as integrated assessment models, to estimate the value of the social cost of carbon, defined as the economic damage that one ton of carbon dioxide (CO<sub>2</sub>) emitted today will cause over the next 300 years. However, these models arbitrarily derive a value for the social cost of carbon. Subjecting the models to reasonable inputs for climate sensitivity and discount rates dramatically lowers the estimated social cost of carbon figure. Artificially increasing the estimates boosts the projected benefits of climate-related regulations in agency cost-benefit analyses. By placing a significantly high arbitrary price on a ton of carbon dioxide emitted into the atmosphere, the agency can inflate the benefits of regulation or inflate the costs of a new project, claiming that the project will emit *X* tons of CO<sub>2</sub> over its lifetime and inflict *Y* damage on the environment. The next Administration should prohibit all federal agencies from using the social cost of carbon for any purpose, especially regulatory rulemaking.<sup>20</sup>
- **Allow states to regulate hydraulic fracturing without federal interference.** The Department

of the Interior has issued federal regulations on hydraulic fracturing (fracking) on federal and Indian lands. Yet federal regulations duplicate existing state regulation of fracking since companies must obtain state permits for all wells, including federal wells, and must comply with all state regulations. One primary reason that shale oil and shale gas production has been so successful economically and environmentally is state management. State regulators and private land owners have the knowledge and incentives to promote economic growth while protecting their environment. States have also been more responsive to the unique interests and concerns of their communities, in contrast to the Interior Department's approach of stalling on granting permits to drill for oil and gas. Not a single case of water contamination has been caused by fracking, and fracking has withstood the many myths demonizing the technology. The next Administration should immediately withdraw this unnecessary, duplicative regulation.<sup>21</sup>

- **Require congressional approval for major regulations.** A number of major regulations in addition to the Obama Administration's climate change regulations threaten natural resource development in the United States. Two of the most threatening are the EPA's proposed Waters of the United States (WOTUS) and more stringent ozone standards. The WOTUS rule is an attack on private property rights and would significantly limit land use, including energy production. More stringent ozone standards would choke off energy and economic development throughout the country and could become the most expensive regulation in history. America

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19. Nicolas D. Loris, "The Many Problems of the EPA's Clean Power Plan and Climate Regulations: A Primer," Heritage Foundation *Backgrounders* No. 3025, July 7, 2015, <http://www.heritage.org/research/reports/2015/07/the-many-problems-of-the-epas-clean-power-plan-and-climate-regulations-a-primer>.

20. Kevin D. Dayaratna and David W. Kreutzer, "Unfounded FUND: Yet Another EPA Model Not Ready for the Big Game," Heritage Foundation *Backgrounders* No. 2897, April 29, 2014, <http://www.heritage.org/research/reports/2014/04/unfounded-fund-yet-another-epa-model-not-ready-for-the-big-game>. See also Kevin D. Dayaratna and David W. Kreutzer, "Loaded DICE: An EPA Model Not Ready for the Big Game," Heritage Foundation *Backgrounders* No. 2860, November 21, 2013, <http://www.heritage.org/research/reports/2013/11/loaded-dice-an-epa-model-not-ready-for-the-big-game>.

21. Nicolas D. Loris, "Hydraulic Fracturing: Critical for Energy Production, Jobs, and Economic Growth," Heritage Foundation *Backgrounders* No. 2714, August 28, 2012, <http://www.heritage.org/research/reports/2012/08/hydraulic-fracturing-critical-for-energy-production-jobs-and-economic-growth>.



needs a check on unelected bureaucrats. Congress should require congressional approval of new major regulations issued by agencies.<sup>22</sup>

- **End unilateral land-use restrictions by repealing the Antiquities Act.** The Antiquities Act of 1906 originally enabled the President to quickly designate land as a national monument to prevent looting of archeological sites. However, Presidents from both parties have abused the power to restrict land use. This practice prohibits or restricts economic opportunity, removes decision making from states and private citizens, and often does more environmental harm than good. Congress should limit the President's power by requiring congressional and state approval for any national monument designation.<sup>23</sup>
- **Empower families and businesses to drive energy efficiency by eliminating government mandates.** Washington should realize that the economy does not need government mandates, rebate programs, or spending initiatives to make businesses and homeowners more energy efficient. Consumers will make those choices by themselves, and the government should not override their choices by nudging them toward the government's preferred outcome. Ultimately, Congress should eliminate existing efficiency mandates or restructure them as voluntary standards under which businesses and consumers can choose their level of participation.<sup>24</sup>
- **Shift responsibility for nuclear waste management from the federal government to nuclear waste producers.** Like other commercial for-profit endeavors, nuclear power companies, not the government, should be responsible for the waste that they produce. This has been the key to success in other countries. At the very least, private companies should be allowed to compete with a government-operated waste management

service. Market-based pricing would allow the true costs of nuclear power to be known, spur innovation in waste management, and enable nuclear power companies to choose services that make the most sense for their customers.<sup>25</sup>

- **Approve the Keystone XL pipeline and streamline energy infrastructure projects.** The next Administration's easiest decision may be to approve the Keystone XL pipeline. Keystone XL is environmentally responsible, will not contribute significantly to climate change, will boost the economy, will increase the supply of oil to America's Gulf Coast refineries, and will provide much needed energy infrastructure. Further, the recent growth in domestic oil and gas production—sometimes in nontraditional areas, such as North Dakota—has resulted in transportation delays. Streamlining the environmental review and permitting processes for new pipelines and grid investments is a welcome step for managing new supplies. However, taxpayers should not subsidize those investments, and Congress should eliminate any federally imposed cost-socialization requirements through which regulatory agencies support expensive, uneconomic projects by spreading the costs to citizens who derive little, if any, benefit from those projects. Additionally, Congress should be mindful of protecting private property rights and respect the state authority to control local and regional needs.
- **Decrease the federal estate.** The federal estate is massive, consisting of some 635 million acres. The effective footprint is even larger because limitations on federal lands often affect the use of adjacent state and private lands because government agencies lock up lands through informal designations and study areas. Regulatory pushes threaten to put almost all of the United States under some form of federal jurisdiction. Federal

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22. James L. Gattuso and Diane Katz, "Red Tape Rising: Six Years of Escalating Regulation Under Obama," Heritage Foundation *Backgrounder* No. 3015, May 11, 2015, <http://www.heritage.org/research/reports/2015/05/red-tape-rising-six-years-of-escalating-regulation-under-obama>.

23. Nicolas D. Loris, "The Antiquated Act: Time to Repeal the Antiquities Act," Heritage Foundation *Backgrounder* No. 2998, March 25, 2015, <http://www.heritage.org/research/reports/2015/03/the-antiquated-act-time-to-repeal-the-antiquities-act>.

24. Nicolas D. Loris, "Government Energy-Efficiency Programs Are Subsidy-Laden Paternalism," Heritage Foundation *Backgrounder* No. 2832, August 1, 2013, <http://www.heritage.org/research/reports/2013/08/government-energy-efficiency-programs-are-subsidy-laden-paternalism>.

25. Spencer, "Blue Ribbon Commission on Nuclear Waste: Missing Opportunity for Lasting Reform."

ownership and federal regulation of public lands restrict economic activity and in many instances have created environmental problems due to mismanaged lands and lack of a proper incentive structure to maintain the properties.

- **Delegate authority to states for environmental review and permitting of energy projects on federal lands within their borders.** The sheer size and diversity of the federal estate and the resources above and below ground are too much for distant federal bureaucracies and an overextended federal budget to manage effectively. Allowing states to regulate the energy resources on federal lands means more efficient and accountable management and frees federal resources for more pressing issues. States share the cost of maintaining federal lands and have the regulatory structures to manage federal lands within their boundaries. Short of returning land ownership to private individuals, the federal government should transfer the responsibility to the states, which would benefit from the energy sources and technologies, including renewable sources that face onerously long permitting time frames.<sup>26</sup>

### **Energy Enterprise: A Free-Market Vision**

The road map for abundant energy supplies, competitive prices, more innovation, and a better standard of living is centered on open markets and less government intervention. The next President can accomplish some of these objectives through the executive branch. Others will require working with Congress. Establishing a framework now that relies on market forces and eliminates favoritism will indicate that the next President will not be beholden to special interests, lobbyists, or Members of Congress with specific pet projects. The American people, businesses, the energy sector, and the economy at large will be much better off because of it.

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26. Donald P. Hodel and Becky Norton Dunlop, "The Federal Estate: Opening Access to America's Resources," Chapter 7 in *Environmental Conservation: Eight Principles of the American Conservation Ethic*, The Heritage Foundation, 2012, <http://www.heritage.org/research/projects/environmental-conservation>; Katie Tubb and Nicolas D. Loris, "The Federal Lands Freedom Act: Empowering States to Control Their Own Energy Futures," Heritage Foundation *Backgrounder* No. 2992, February 18, 2015, <http://www.heritage.org/research/reports/2015/02/the-federal-lands-freedom-act-empowering-states-to-control-their-own-energy-futures>.