MAY 23, 2024

THE BIDEN ADMINISTRATION'S GREEN NEW DEAL: PAYING MORE FOR A DIMMER FUTURE

STAFF REPORT

HOUSE COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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EXECUTIVE SUMMARY

America's energy future is under threat from the Biden Administration's "whole-of-government" effort to hinder growth of domestic energy production at a time when demand continues to rise. The Biden Administration's energy policies have led to higher gas prices, growing uncertainty in the power sector, confusion in the market for new cars and appliances, and a labyrinth of expensive regulatory hurdles which have led to—and will continue to lead to—increased costs for consumers and businesses.

It didn't have to be this way.

In 2019, the U.S. officially became energy independent for the first time since the early 1950s signifying a major milestone that reshaped the global energy landscape. [1] Under the Trump Administration, exports of liquified natural gas (LNG) increased five-fold and shale-driven innovations helped decrease the price of oil globally by 10 percent.[2]

This dramatic growth would not have occurred without advancements in industry innovation and support from government entities and regulators that recognized value in U.S. global leadership in energy as a benefit to the economy and national security. The resulting energy independence had profound positive impacts on consumer prices, both in the U.S. and abroad, allowing for more access to supplies that would help drive economic prosperity for American consumers and businesses.

But the Biden Administration fails to recognize the potential of American energy. The Administration purports to pursue policies aimed at increasing electrification while simultaneously stymieing growth potential for power producers necessary to support these initiatives. Permitting challenges threaten access to resources and bringing new power generation infrastructure online. And massive, costly new regulations stifle innovation and growth.

This report details major problems facing critical sectors of the U.S. economy exacerbated by the Biden Administration's shortsighted energy policies and the resulting impacts on American businesses and consumers.

[1] U.S. Energy Info. Admin., *U.S. energy facts explained*, *available at* https://www.eia.gov/energyexplained/us-energy-facts/imports-and-exports.php (last visited May 15, 2024).
[2] Executive Office of the President, Council of Economic Advisers, *The Value of U.S. Energy Dominance*, (Jul. 29, 2020), *available at* https://trumpwhitehouse.archives.gov/articles/value-u-s-energy-dominance/.

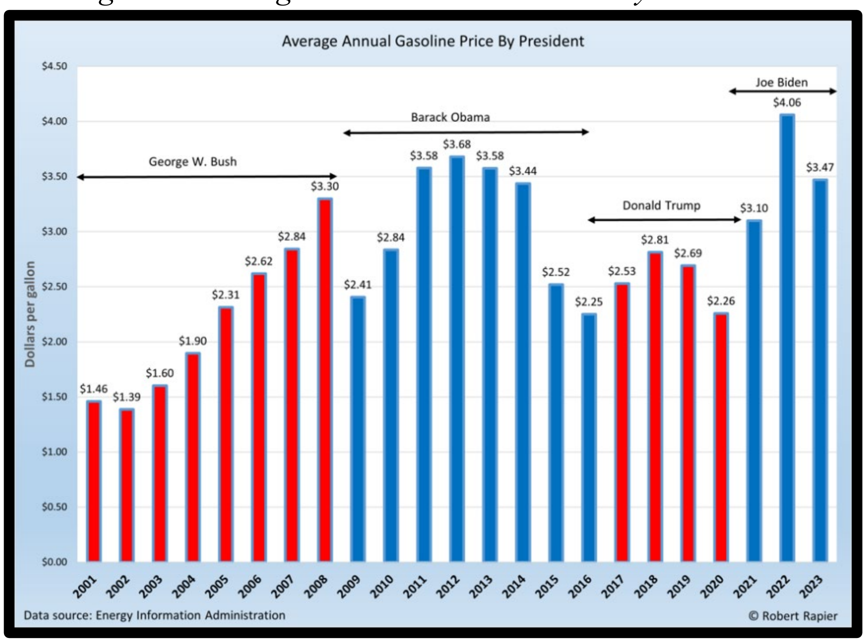
HIGHER GAS PRICES

Prices, Prices, Prices

The Biden Administration has driven up gas prices through rising production and transportation costs, pricy regulatory actions, and supply manipulations, thereby ceding American energy potential and harming consumer spending power simply to curry favor with radical climate activists.

Gas prices were $2.39 per gallon the day after President Biden took office on January 20, 2021.[3] On February 25, 2022, the day following Russia's invasion of Ukraine, the national average for a gallon of gas had already reached $3.57—indicating that gas prices were already sky-high and rising under the Biden Administration despite protestations from President Biden that Russia was solely responsible for domestic fuel inflation.[4] On June 14, 2022, average national gas prices surged to an all-time high, with the price of a gallon of regular unleaded gas reaching $5.016.[5]

Figure 1: Average Annual Gasoline Price By President[6]



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[3] AAA, *National Average Gas Prices*, *available at* https://web.archive.org/web/20210121050022/https://gasprices.aaa.com/.

[4] Nasdaq, Lisa Rowan, *Gas Prices Were Already Rising Before Russia Invaded Ukraine. What's Next?* (Mar. 8, 2022), *available at* https://www.nasdaq.com/articles/gas-prices-were-already-rising-before-russia-invaded-ukraine.-whats-next.

[5] AAA, *Highest Recorded Average Price*, *available at* https://gasprices.aaa.com/ (last visited May 14, 2023).

[6] Robert Rapier, *Average Gasoline Prices Under The Past Four Presidents*, FORBES (Mar. 8, 2023), *available at* https://www.forbes.com/sites/rrapier/2023/03/08/average-gasoline-prices-under-the-past-four-presidents.

American Energy Independence

By 2019 the United States emerged as a global energy superpower due to the shale revolution, hard-working American energy workers and producers, and the efforts of the Trump administration, which fostered a regulatory environment where growth and innovation were rewarded. American energy independence lowered prices, expanded production, and stabilized the energy market.[7] President Trump cemented the U.S. as a net energy exporter for the first time in nearly 70 years, opened the "Arctic National Wildlife Refuge (ANWR) in Alaska to oil and gas leasing," and helped save American families "$2,500 a year in lower electric bills and lower prices at the gas pump."[8] A report conducted by the Council of Economic Advisors in 2020 found that under the Trump Administration, "greater productivity has reduced the domestic price of natural gas by 63 percent as of 2018 and led to a 45 percent decrease in the wholesale price of electricity."[9] These savings disproportionately benefitted low-income households, which spend a larger portion of their total income on energy bills.[10]

When President Trump took office in January 2017, the average price of gas was $2.47 per gallon.[11] The average for his entire four-year term was only slightly higher, at $2.57.[12] According to the U.S. Energy Information Administration, retail gasoline prices never exceeded $3.039 on a weekly average throughout the Trump presidency.[13] President Trump's actions to unleash America's oil and natural gas potential helped not only keep gas prices low, but created the stability necessary for energy producers and exporters to plan for the long-term and invest in America's energy infrastructure.

President Biden's Actions to Manipulate Gas Prices

Instead of creating an economic and regulatory environment necessary for low fuel prices, President Biden did the opposite. And then when prices increased, he sought to abuse government resources—like the Strategic Petroleum Reserve—to manipulate gas prices in the short-term to avoid political backlash.[14] President Biden's Administration acted at every turn without a full analysis of long-term consequences and specifically intended to politically benefit

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[7] Farid Guliyev, *Trump's "America first" energy policy, contingency and the reconfiguration of the global energy order*, SCIENCE DIRECT (May 2020), *available at* https://www.sciencedirect.com/science/article/.
[8] The White House, *Trump Administration Accomplishments* (Jan. 2021), *available at* https://trumpwhitehouse.archives.gov/trump-administration-accomplishments/.
[9] Executive Office of the President, Council of Economic Advisers, *The Value of U.S. Energy Innovation and Policies Supporting the Shale Revolution* (Oct. 2019), *available at* https://trumpwhitehouse.archives.gov/wp-content/uploads/2019/10/The-Value-of-U.S.-Energy-Innovation-and-Policies-Supporting-the-Shale-Revolution.pdf.
[10] *Id.*
[11] Rick Newman, *Why Trump edges Biden on gas prices*, YAHOO! FINANCE (May 2, 2024), *available at* https://finance.yahoo.com/news/why-trump-edges-biden-on-gas-prices-174049744.html.
[12] *Id.*
[13] U.S. Energy Info. Admin, *Petroleum & Other Liquids*, *Weekly U.S. All Grades All Formulations Retail Gasoline Prices (Dollars per Gallon)*, *available at* https://www.eia.gov/dnav/pet/hist/LeafHandler.
[14] Zack Budryk, *Five actions Biden has taken in response to high gas prices*, THE HILL (Apr. 22, 2022), *available at* https://thehill.com/policy/energy-environment/3460202-five-actions-biden-has-taken-in-response-to-high-gas-prices/.

President Biden and congressional Democrats at the expense of energy and national security. Although President Biden sought a short-term political impact, the full effects of misguided executive orders and regulatory actions will continue to impact domestic and global markets for years to come.

Figure 2: A sticker with a picture of President Joe Biden that says "I did that!" stamped on a gas pump in Arlington, Virginia on March 16, 2022[15]

Examples of President Biden's misguided actions include:

- <u>Moratorium, Delays, and Obstructing Onshore and Offshore leases</u>: Two executive orders, 13990 and 14008, issued less than a week into President Biden's presidency, placed a moratorium on federal onshore and offshore oil and natural gas leases.[16] The moratorium was lifted in June 2022, but only after a court ordered the Administration to reverse course.[17] Since the end of the moratorium, the Department of the Interior (DOI) has leased the fewest acres for oil and gas production of any presidential administration

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[15] Saul Loeb/AFP/Getty Images, Ewan Palmer, *Why Joe Biden 'I Did That' Gas Pump Stickers Are Appearing Everywhere*, NEWSWEEK (May 23, 2022), *available at* <u>https://www.newsweek.com/joe-biden-did-that-stickers-gas-prices-1709044</u>.

[16] Exec. Order No. 13990, 86 Fed. Reg. 7037 (Jan. 20, 2021).; Exec. Order No. 14008, 86 Fed. Reg. 7619 (Jan. 27, 2021).

[17] Bobby Magill, *Biden's First Public Land Oil and Gas Lease Sales Survive Suit*, BLOOMBERG LAW (Mar. 25, 2024), *available at* <u>https://news.bloomberglaw.com/environment-and-energy/bidens-first-public-land-oil-and-gas-lease-sales-survive-suit</u>.

since the end of World War II.[18] On March 28, 2023, the Committee on Oversight and Accountability and the Committee on Natural Resources wrote DOI explaining how the delay in issuing its five-year offshore leasing plan—the 2024-2029 National Outer Continental Shelf Oil and Gas Leasing Program—had contributed to a lack of certainty for domestic oil and gas development.[19] DOI finally released the plan on September 29, 2023, more than a year late, creating more uncertainty because the Biden Administration has not conducted any new lease sales and now officially offers the fewest oil and gas leases in history.[20] Accordingly, in 2024, DOI will hold zero auctions for acres in federal waters—the first time this has happened since 1966.[21]

- Fuel Efficiency Standards: On December 31, 2021, the Environmental Protection Agency (EPA) finalized a rule seeking to "reduce fuel consumption" by requiring dramatic reductions in greenhouse gas emissions from light-duty vehicles.[22] The final rule dismisses the projection of the U.S. as net exporter of crude oil, champions foreign oil producers' impact on domestic prices, and naively concludes American energy security will improve with "decreased exposure to volatile world oil prices" by reducing domestic consumption of fuel and becoming dependent on oil imports from other countries.[23]

- Methane Emissions Regulation: On May 6, 2024, President Biden's EPA finalized rules for methane emissions reporting requirements.[24] On April 6, 2023, the Committee on Oversight and Accountability wrote EPA on its then-proposed methane rules explaining compliance costs, supply chain delays, and claim disputes will increase production costs

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[18] Timothy Puko and Anthony DeBarros, *Federal Oil Leases Slow to Trickle Under Biden*, WALL ST. J. (Sep. 4, 2022), *available at* https://www.wsj.com/articles/federal-oil-leases-slow-to-a-trickle-under-biden-11662230816.

[19] Letter from James Comer, Chairman, H. Comm. on Oversight and Accountability, *et al.*, to Laura Daniel-Davis, Principal Deputy Assistant Sec'y, Land and Minerals Mgmt., U.S. Dep't of the Interior (Mar. 28, 2023), *available at* https://oversight.house.gov/wp-content/uploads/2023/03/Letter-to-DOI-re-BOEM-lease-sale-258-032823.pdf.

[20] H. Comm. on Natural Resources, Press Release, *Offshore Leasing Plan Arrives Months Late and Punishes American Industries* (Sept. 29, 2023), *available at* https://naturalresources.house.gov/news/; Lisa Friedman, *Biden Administration Offers Fewest Offshore Oil and Gas Leases in History*, N.Y. TIMES (Sept. 29, 2023), *available at* https://www.nytimes.com/2023/09/29/climate/biden-offshore-drilling-plan.html.

[21] John Siciliano, *US Interior's 5-year lease plan for offshore wind raises oil auction concerns*, S&P GLOBAL (Apr. 25, 2024), *available at* https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/electric-power/042524-us-interiors-5-year-lease-plan-for-offshore-wind-raises-oil-auction-concerns.

[22] *Revised 2023 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions Standards*, 86 Fed. Reg. 74434 (Dec. 30, 2021) (codified at 40 C.F.R. pt. 86, 600), *available at* https://www.govinfo.gov/content/pkg/FR-2021-12-30/pdf/2021-27854.pdf.

[23] *Id*.

[24] EPA, Press Release, *Biden-Harris Administration Announces Final Rule to Cut Methane Emissions, Strengthen and Update Greenhouse Gas Emissions Reporting for the Oil and Gas Sector* (May 6, 2024), *available at* https://www.epa.gov/newsreleases/biden-harris-administration-announces-final-rule-cut-methane-emissions-strengthen-.

and inevitably contribute to higher prices paid by consumers at a time of already record-high energy rates.[25]

- Attempts to Eliminate Tax Provisions Encouraging Domestic Energy Production: President Biden has tried four times to remove longstanding tax policy measures promoting coal, oil, and natural gas production to pay for his climate spending spree.[26] Tax deductions for intangible drilling costs and other subsidies assist independent producers "who develop 91 percent of the wells in the United States – producing 83 percent of America's oil and 90 percent of America's natural gas."[27] Meanwhile, the so-called Inflation Reduction Act, which directed $145 billion in taxpayer funds to green energy and climate programs, has not yielded justifiable results.[28]

- Forcing FTC Action to Punish Oil and Gas Companies: On November 17, 2021, President Biden wrote Federal Trade Commission (FTC) Chair Lina Khan, demanding that FTC investigate the oil and gas market for exhibiting "anti-consumer behavior"[29] as gas prices soared to $3.413.[30] After the President's demands for FTC to provide him political cover for the increasing costs associated with his energy policies, FTC required at least five oil and gas mergers to respond to second requests for information under the Hart-Scott Rodino Act (HSR),[31] a historically unusual practice subjecting oil and gas producers to onerous information requests.[32] On April 16, 2024, the Committee sought information from FTC regarding its new partnership with the Department of Justice (DOJ) assembling a "new Strike Force" to go after companies for "unfair and illegal

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[25] Brook Simmons and Anne Bradbury, *Biden Administration Policies Hurting Energy Development in Oklahoma and Across the U.S.*, REAL CLEAR ENERGY (March 16, 2023), *available at* https://www.realclearenergy.org/articles/2023/03/16/biden_administration_policies_hurting_energy_development_in_oklahoma_and_across_the_us ; Letter from James Comer, Chairman, H. Comm. on Oversight and Accountability, and Pat Fallon, Chairman, Subcomm. on Economic Growth, Energy Policy, and Regulatory Affairs, to Michael S. Regan, Administrator, EPA (Apr. 6, 2023), *available at* https://oversight.house.gov/wp-content/uploads/2023/04/118-EPA-Methane-Rule-Letter.pdf.

[26] Lisa Friedman, *The Zombies of the U.S. Tax Code: Why Fossil Fuels Subsidies Seem Impossible to Kill*, N.Y. TIMES (Mar. 15, 2024), *available at* https://www.nytimes.com/2024/03/15/climate/tax-breaks-oil-gas-us.html.

[27] Indep. Petroleum Ass'n of America, *Who are America's Independent Producers?, available at* https://www.ipaa.org/independent-producers/ (last visited May 14, 2024).

[28] Jessie Blaeser, *et al.*, *Joe Biden is trying to Trump-proof his $1.6 trillion legacy. He's got a long way to go before November.*, E&E NEWS (May 7, 2024), *available at* https://www.eenews.net/articles-ee-subscriber-joe-biden-is-trying-to-trump-proof-his-1-6-trillion-legacy-hes-got-a-long-way-to-go-before-november/.

[29] Letter from President Joseph R. Biden to Lina Khan, Chair, Federal Trade Comm'n (Nov. 17, 2021), *available at* https://www.nytimes.com/interactive/2021/11/17/us/ftc-gas-prices.html.

[30] AAA, *National Average Gas Prices*, *available at* https://web.archive.org/web/20211117135055/https://gasprices.aaa.com/.

[31] David French and Diane Bartz, *U.S. Slows Down Oil and Gas Mergers-sources*, REUTERS (Oct. 21, 2021), *available at* https://www.reuters.com/business/energy/exclusive-us-slows-down-oil-gas-mergers-sources-2021-10-21/.

[32] David French and Diane Bartz, *U.S. Slows Down Oil and Gas Mergers-sources*, REUTERS (Oct. 21, 2021), *available at* https://www.reuters.com/business/energy/exclusive-us-slows-down-oil-gas-mergers-sources-2021-10-21/; James Osbourne, *Exxon, Chevron mergers face test at Biden's FTC*, HOUSTON CHRONICLE (Nov. 14, 2023), *available at* https://www.houstonchronicle.com/business/energy/article/oil-mergers-exxon-chevron-khan-anti-trust-18477791.php.

pricing," including oil and gas companies, in light of clear politicization of FTC's enforcement authorities to give the Administration political cover for rising prices.[33]

- Depleting the U.S. Strategic Petroleum Reserve (SPR): The SPR—created to insulate domestic prices from petroleum supply disruptions, such as from a natural disaster, warfare, or severe production volatility—was drawn down to historically low levels to combat runaway fuel prices before the November 2022 midterm elections.[34] In November 2021, President Biden authorized his first SPR release of 50 million barrels.[35] Some experts say this decision was pressured by price increases without necessary evidence of supply disruption.[36] On March 31, 2022, eight months before the midterm elections, President Biden announced the unprecedented release of 180 million barrels of crude oil from the SPR.[37] From October 2021 through October 2022, the Biden Administration planned to release up to 260 million barrels.[38] The Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs obtained testimony from an expert witness explaining that despite President Biden blaming world events like the invasion of Ukraine for rising prices, "…the root cause is global anti-fossil fuel policies supported by Biden, which made oil and other fossil fuel prices artificially high pre-war and prevented the free world from quickly increasing production in response."[39]

- Global Agreements to End Fossil Fuels Financing: President Biden recommitted the U.S to the legally binding Paris Agreement, which President Trump had exited to "begin negotiations to reenter either the Paris Accord or a really entirely new transaction on terms that are fair to the United States, its businesses, its workers, its people, its taxpayers."[40] The Biden Administration then pledged to "end new international finance

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[33] Letter from James Comer, Chairman, H. Comm. on Oversight and Accountability, to Lina Khan, Chair, Federal Trade Comm'n (Apr. 16, 2024), *available at* https://oversight.house.gov/wp-content/uploads/2024/04/Comer-FTC-letter-041624.pdf.

[34] *See* Letter from James Comer, Chairman, H. Comm. on Oversight and Accountability, and Pat Fallon, Chairman, Subcomm. on Economic Growth, Energy Policy, and Regulatory Affairs, to Jennifer Granholm, Sec'y, Dep't of Energy (Apr. 4, 2023), *available at* https://oversight.house.gov/wp-content/uploads/2023/04/Letter-to-DOE-re-SPR-oversight-118th.pdf.

[35] Federal Reserve Bank of Dallas, Garrett Golding and Lutz Kilian, *A Ban on U.S. Crude Exports Would not Lower Gasoline Prices at the Pump* (Jan. 4, 2022), *available at* https://www.dallasfed.org/research/economics/2022/0104.

[36] Council on Foreign Relations, Podcast Transcript, *The Future of Energy, With Helima Croft* (Dec. 7, 2021), *available at* https://www.cfr.org/podcasts/future-energy-helima-croft.

[37] The White House, Speeches and Remarks, *Remarks by President Biden on Actions to Lower Gas Prices at the Pump for American Families* (Mar. 31, 2022), *available at* https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/03/31/remarks-by-president-biden-on-actions-to-lower-gas-prices-at-the-pump-for-american-families/.

[38] Cong. Research Service, *Strategic Petroleum Reserve Oil Releases: October 2021 Through October 2022* (Apr. 22, 2022), *available at* https://crsreports.congress.gov/product/pdf/IN/IN11916.

[39] *Burning the Midnight Oil: Why Depleting the Strategic Petroleum Reserve is Not a Solution to America's Energy Problem, Part 1: Hearing Before the H. Comm. on Oversight and Accountability, Subcomm. on Economic Growth, Energy Policy, and Regulatory Affairs*, 118th Cong. (Mar. 8, 2023) (statement of Alex Epstein, President, Center for Industrial Progress).

[40] The White House, Remarks, *Statement by President Trump on the Paris Climate Accord* (June 1, 2017), *available at* https://trumpwhitehouse.archives.gov/briefings-statements/statement-president-trump-paris-climate-accord/.

for unabated fossil fuel energy,"[41] increasing global oil and gas prices. Meanwhile, the Biden Administration's flagship climate diplomacy operation—the Special Envoy for Climate (SPEC)—has jetted around the world to climate conferences, releasing confidential information related to U.S. foreign policy, energy policy, and national security policy to leftist activist groups with ties to foreign adversaries.[42]

- The Biden Administration's push for OPEC Assistance: The Biden Administration's reluctance to champion a role for fossil fuels in the energy supply has ceded control to other nations to dictate domestic prices for consumers. On numerous occasions, the Biden Administration has sought to blame rising prices on the Organization of the Petroleum Exporting Countries (OPEC) and its affiliates (OPEC+) for production cuts instead of reviewing and revising its own policies directly contributing to uncertainty in the market and raising costs for American energy producers. Biden Administration officials believed President Biden's trip to Saudi Arabia in August 2022 "could shore up a Saudi commitment to convince OPEC to increase oil production"[43] in the wake of historic Strategic Petroleum Reserve (SPR) depletions before the November 2022 midterm elections.[44] The American people aren't the only ones scratching their heads at the Biden Administration's capitulation of American energy security to foreign actors. Department of Energy (DOE) staff describe headlines like "Saudi Arabia was right to defy Biden over oil production, minister says, cementing a power play that seems to have paid off" and "Riyadh is engaging with Russia over keeping oil prices relatively stable" as not "particularly helpful."[45]

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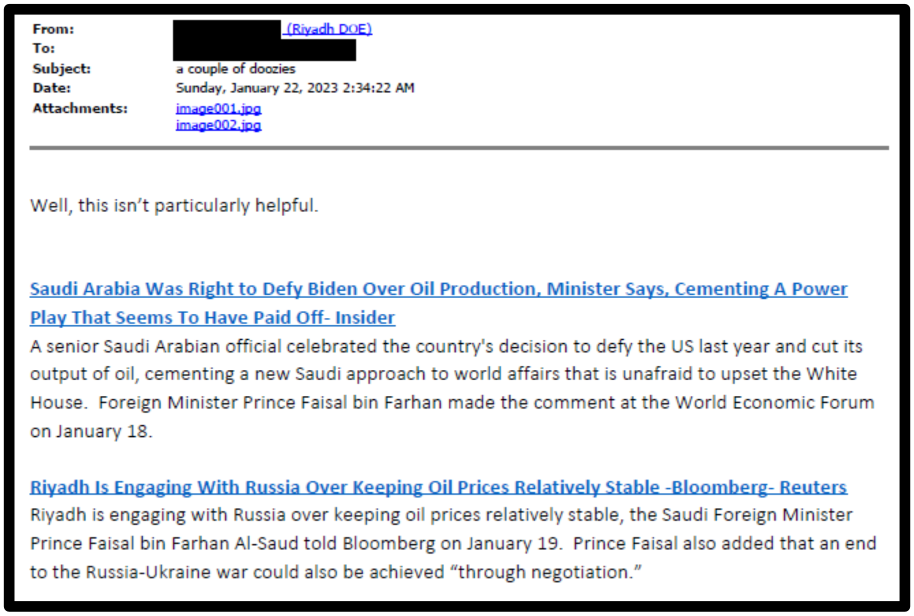
[41] The White House, Statements and Releases, *FACT SHEET: Renewed U.S. Leadership in Glasgow Raises Ambition to Tackle Climate Crisis* (Nov. 13, 2021), *available at* https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/13/fact-sheet-renewed-u-s-leadership-in-glasgow-raises-ambition-to-tackle-climate-crisis/.
[42] *See* Letter from James Comer, Chairman, H. Comm. on Oversight and Accountability, to Antony J. Blinken, Sec'y, U.S. Dep't of State (Feb. 7, 2024), *available at* https://oversight.house.gov/wp-content/uploads/2024/02/Letter-to-SPEC-on-Kitchen-Cabinet-and-payroll.pdf.
[43] Mark Mazzetti, *et al.*, *U.S. Officials Had a Secret Oil Deal With the Saudis. Or So They Thought.*, N.Y. TIMES (Oct. 25, 2022), *available at* https://www.nytimes.com/2022/10/25/us/politics/us-saudi-oil-deal.html.
[44] *Supra* note 34.
[45] Dep't of Energy Production to the H. Comm. on Oversight and Accountability, *available on file with Committee staff*.

Figure 3: Email from DOE staff expressing concern with reports of President Biden going to Saudi Arabia to keep oil prices stable[46]



From: [redacted] (Riyadh DOE)
To: [redacted]
Subject: a couple of doozies
Date: Sunday, January 22, 2023 2:34:22 AM
Attachments: image001.jpg
image002.jpg

Well, this isn't particularly helpful.

Saudi Arabia Was Right to Defy Biden Over Oil Production, Minister Says, Cementing A Power Play That Seems To Have Paid Off- Insider
A senior Saudi Arabian official celebrated the country's decision to defy the US last year and cut its output of oil, cementing a new Saudi approach to world affairs that is unafraid to upset the White House. Foreign Minister Prince Faisal bin Farhan made the comment at the World Economic Forum on January 18.

Riyadh Is Engaging With Russia Over Keeping Oil Prices Relatively Stable -Bloomberg- Reuters
Riyadh is engaging with Russia over keeping oil prices relatively stable, the Saudi Foreign Minister Prince Faisal bin Farhan Al-Saud told Bloomberg on January 19. Prince Faisal also added that an end to the Russia-Ukraine war could also be achieved "through negotiation."

American Energy Resilience

U.S. oil and gas producers have continued supplying their critical products in the face of the Biden Administration's vilification of their essential industry. In 2023, the U.S. produced 12.9 million barrels of crude oil per day, compared to Russia and Saudia Arabia producing 10.1 and 9.7 million barrels per day, respectively.[47] In fact, the U.S. "produced more crude oil than any nation at any time…for the past six years in a row."[48] That record of all-time crude oil production is "unlikely to be broken in any other country in the near term."[49] Oil and gas production can take years to come online after research, evaluation, leasing, exploration, and development concludes, which the Biden Administration has jeopardized with its policy decisions.[50]

Under the Trump Administration, exports of liquified natural gas (LNG) increased five-fold,[51] and the U.S. now leads the world in LNG exports.[52] In 2023, the U.S. became the top

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[46] *Id.*
[47] U.S. Energy Info. Admin, *United States produces more crude oil than any country, ever* (Mar. 11, 2024*), available at* https://www.eia.gov/todayinenergy/detail.php.
[48] *Id.*
[49] *Id.*
[50] American Petroleum Inst., *Economic Impact of Federal Natural Gas & Oil Development*, *available at* https://www.api.org/-/media/files/policy/exploration/2022/api-federal-lands-and-waters-timelines.pdf (last visited May 16, 2024).
[51] *Supra* note 2.
[52] Gaurav Sharma, *U.S. Overtakes Qatar To Become The World's Top LNG Exporter*, FORBES (Jan. 5, 2024), *available at* https://www.forbes.com/sites/gauravsharma/2024/01/05/us-overtakes-qatar-to-become-the-worlds-top-lng-exporter/.

exporter of LNG, averaging 11.9 billion cubic feet per day (bcf/d).[53] But on January 26, 2024, the Biden Administration announced its decision to pause pending decisions on export permitting for LNG to non-Free Trade Agreement countries.[54] The decision jeopardizes further development given the long planning horizons of LNG exporters and importers, and damages U.S. energy security and national security.[55] On March 21, 2024, the Attorneys General of Louisiana, Texas, Mississippi, Alabama, Alaska, Arkansas, Florida, Georgia, Kansas, Montana, Nebraska, Oklahoma, South Carolina, Utah, West Virginia, and Wyoming sued the Biden Administration in opposition to the pause, styling it as, effectively, a "ban."[56]

Biden Administration rulemakings such as EPA's power plants rule seek to end all coal production,[57] even though coal supplied approximately 20 percent of U.S. electricity and over 50 percent of eight states' electricity in 2023.[58] Over half of states sued the EPA, arguing that the EPA wildly overstepped its authority without express congressional approval.[59] President Biden's efforts to end coal production extend to global commitments. Former SPEC John Kerry announced the U.S. joined the Powering Past Coal Alliance (PPCA) at the 2023 United Nations Climate Change Conference (COP28) in Dubai, United Arab Emirates.[60] On January 5, 2024, the Committee wrote the State Department regarding the PPCA announcement, calling out the Biden Administration for coordinating with leftist environmental groups on the decision instead of acting in the interests of the American people.[61]

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[53] *EIA: US was world's largest LNG exporter in 2023*, OIL & GAS J. (Apr. 2, 2024), *available at* https://www.ogj.com/general-interest/economics-markets/article/.
[54] The White House, Statements and Releases, *FACT SHEET: Biden-Harris Administration Announces Temporary Pause on Pending Approvals of Liquefied Natural Gas Exports* (Jan. 26, 2024), *available at* https://www.whitehouse.gov/briefing-room/statements-releases/2024/01/26/fact-sheet-biden-harris-administration-announces-temporary-pause-on-pending-approvals-of-liquefied-natural-gas-exports/.
[55] *See* Letter from James Comer, Chairman, H. Comm. on Oversight and Accountability, *et al.*, to Jennifer Granholm, Sec'y, Dep't of Energy (Mar. 18, 2024), *available at* https://oversight.house.gov/wp-content/uploads/2024/03/DOE-LNG-Exports.pdf.
[56] Clark Mindock, *Sixteen Republican-led US states sue federal government over ban on LNG permits*, REUTERS (Mar. 22, 2024), *available at* https://www.reuters.com/legal/sixteen-us-states-sue-federal-government-over-ban-lng-permit-2024-03-21.
[57] *New Source Performance Standards for Greenhouse Gas Emissions From New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; Emission Guidelines for Greenhouse Gas Emissions From Existing Fossil Fuel-Fired Electric Generating Units; and Repeal of the Affordable Clean Energy Rule*, 89 Fed. Reg. 39798 (May 9, 2024) (codified at 40 C.F.R. pt. 60), *available at* https://www.federalregister.gov/documents/2024/05/09/2024-09233/new-source-performance-standards-for-greenhouse-gas-emissions-from-new-modified-and-reconstructed.
[58] U.S. Energy Info. Admin., *Short Term Energy Outlook*, *available at* https://www.eia.gov/outlooks/steo/ (last visited Dec. 18, 2023). Choose Energy, *Top 10 states using coal to generate electricity*, *available at* https://www.chooseenergy.com/data-center/electricity-sources-by-state/ (last visited Dec. 18, 2023).
[59] Clark Mindock, *US Republican attorneys general sue to stop EPA's carbon rule*, REUTERS (May 9, 2024), *available at* https://www.reuters.com/sustainability/climate-energy/25-us-states-challenge-epa-power-plant-emissions-rule-court-2024-05-09/.
[60] Seth Borenstein, *US joins in other nations in swearing off coal power to clean the climate*, AP NEWS (Dec. 2, 2023), *available at* https://apnews.com/article/coal-climate-change-eliminate-electricity.
[61] Letter from James Comer, Chairman, H. Comm. on Oversight and Accountability, to Antony J. Blinken, Sec'y, Dep't of State (Jan. 5, 2024), *available at* https://oversight.house.gov/wp-content/uploads/2024/01/SPEC-Powering-Past-Coal-Alliance-010524.pdf (emphasis added).

In 2022, nuclear power plants produced 772 billion kilowatt hours of electricity, making the U.S. the largest nuclear power producer globally,[62] followed by France, China, and Russia.[63] 93 commercial reactors provide 28 states with energy; Illinois, South Carolina, and New Hampshire each receive the majority of their power via nuclear.[64] The Trump Administration achieved numerous milestones in nuclear including siting the nation's first small modular reactor, establishing the National Reactor Innovation Center for testing new reactor concepts, and investing in the next generation of U.S. nuclear technology.[65] Despite these strides, permitting challenges perpetuated under the Biden Administration create significant hurdles for future development and innovation in nuclear power.[66]

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[62] Dep't of Energy, *5 Fast Facts About Nuclear Energy*, *available at* https://www.energy.gov/ne/articles/5-fast-facts-about-nuclear-energy (last visited Jan. 3, 2024).
[63] U.S. Energy Info. Admin., *Nuclear explained*, *available at* https://www.eia.gov/energyexplained/nuclear/nuclear-power-plants (last visited Jan. 3, 2024).
[64] *Supra* note 62.
[65] Dep't of Energy, *11 Accomplishments by the Trump Administration in Advanced Nuclear Energy*, *available at* https://www.energy.gov/ne/photos/11-accomplishments-trump-administration-advanced-nuclear-energy (last visited May 16, 2024).
[66] *See The Next Generation: Empowering American Nuclear Energy: Hearing Before the H. Comm. on Oversight and Accountability, Subcomm. on Economic Growth, Energy Policy, and Regulatory Affairs*, 118th Cong. (Jan. 18, 2024).

RISING ELECTRICITY PRICES, LESS STABLE ELECTRICAL GRID

Electricity Consumption Today

The Bureau of Labor Statistics has indicated that over the past year electricity prices have risen faster than the pace of inflation and more so than any other commodity.[67] Sweeping electrification initiatives—such as for electric vehicles (EVs) in the automotive sector—scaling of artificial intelligence utilization, enormous data center expansions, and federal incentivization of onshore manufacturing in the industrial sector, have dramatically increased the demand facing our nation's electrical grid.

Figure 4: Utility Generated Electricity Consumption in the United States

Utility Generated Electricity Consumption in the United States	
Year	**Kilowatt-hours (kWh)**
2023	4.18 trillion kWh[68]
2022	4.07 trillion kWh[69]
2021	3.94 trillion kWh[70]

Even as use efficiency improves, the U.S. Energy Information Administration projects U.S. utility-generated electricity demand to continue growing at an average annual rate of one percent through 2050.[71] But radical new policies and regulations promulgated by the Biden Administration seek to transform power generation and electricity markets. The Biden Administration is moving to replace highly reliable and affordable existing sources of energy with new sources that are typically less reliable and more expensive. For consumers, the results of these initiatives will predictably be higher costs on utility bills, higher costs for goods and services that consume electricity, invisible energy subsidy costs paid through income and other taxes, as well as economic costs as high electricity prices push some business opportunities overseas.

Not all power generating sources provide electricity equally. In 2023, U.S. electricity generation relied on a mix of sources, with fossil fuel sources comprising well more than half.

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[67] Zach Bright, *Electricity prices rise faster than inflation*, E&E NEWS (Apr. 12, 2024), *available at* https://www.eenews.net/articles/electricity-prices-rise-faster-than-inflation/.

[68] U.S. Energy Info. Admin., FAQs, *What is U.S. electricity generation by energy source?*, *available at* https://www.eia.gov/tools/faqs/faq.php?id=427&t=2 (last visited May 14, 2024).

[69] U.S. Energy Info. Admin., *Table 2.2. Sales and Direct Use of Electricity to Ultimate Customers*, *available at* https://www.eia.gov/electricity/annual/html/epa_02_02.html (last visited May 14, 2024).

[70] *Id.*

[71] U.S. Energy Info. Admin., *Electricity Explained*, *available at* https://www.eia.gov/energyexplained/electricity/use-of-electricity.php (last visited May 14, 2024).

Figure 5: 2023 U.S. utility-scale electricity generation by source[72]

2023 U.S. utility-scale electricity generation by source	
Source	**Share**
Natural Gas	43.1%
Nuclear	18.6%
Coal	16.2%
Wind	10.2%
Hydropower	5.7%
Solar	3.9%
Biomass	1.1%
Geothermal	0.4%
Petroleum	0.4%
Other	0.2%

Baseload power sources, such as natural gas and nuclear, provide steady, continuous electricity for the grid,[73] while intermittent energy sources, such as wind and solar, can only generate energy if specific environmental conditions are met.[74] Due to their inconsistent production, intermittent energy sources cannot provide the dependable power necessary to ensure grid reliability.[75] Further, as electricity usage is not static, sudden demand fluctuations or decreased production by renewables must be met by fossil fuel plants that operate on an as-needed basis to quickly pump energy to the grid and prevent rolling blackouts.[76]

The Biden Administration's Costly "Clean Power Plan 2.0"

On April 25, 2024, the Biden Administration EPA finalized new limits on emissions from existing coal and new natural gas powered generators.[77] Some generators expected to operate beyond 2040 will be required to reduce emissions by nearly 90 percent. This would, according to the EPA, primarily be achieved through carbon capture and storage/sequestration technology, or CCS.[78]

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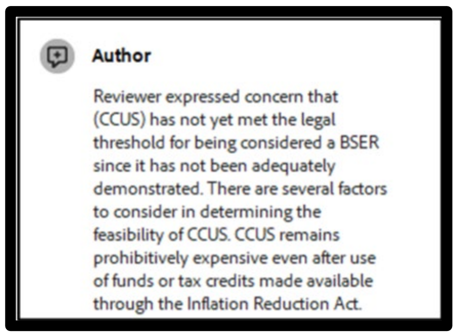
[72] U.S. Energy Info. Admin., *Frequently Asked Questions (FAQs)*, *What is U.S. electricity generation by energy source?*, *available at* https://www.eia.gov/tools/faqs/faq.php?id=427&t=3 (last visited May 16, 2024).
[73] U.S. Energy Info. Admin., *Glossary, available at* https://www.eia.gov/tools/glossary/?id=B (last visited May 14, 2024).
[74] *Id.*
[75] *See The Power Struggle: Examining the Reliability and Security of America's Electrical Grid: Hearing Before the H. Comm. on Oversight and Accountability, Subcomm. on Economic Growth, Energy Policy, and Regulatory Affairs*, 118th Cong. (Mar. 12, 2024), *available at* https://oversight.house.gov/hearing/the-power-struggle-examining-the-reliability-and-security-of-americas-electrical-grid/.
[76] Enel, *What is a peaking power plant?*, *available at* https://www.enelnorthamerica.com/insights/blogs/what-is-a-peaking-power-plant (last visited May 14, 2024).
[77] *Supra* note 57.
[78] EPA, Press Release, *Biden-Harris Administration Finalizes Suite of Standards to Reduce Pollution from Fossil Fuel-Fired Power Plants* (Apr. 25, 2024), *available at* https://www.epa.gov/newsreleases/biden-harris-administration-finalizes-suite-standards-reduce-pollution-fossil-fuel.

But this plan, even as admitted by internal EPA views, is flawed and relies significantly on largely untested technology.[79] In the proposed rule, EPA's own analysis notes how a carbon capture facility had to be decommissioned after persistent mechanical failures.[80] Documents produced to the Committee by EPA revealed shocking internal comments on drafts that Biden Administration officials have their own doubts surrounding the feasibility of their emissions standards. In one such internal comment, as made public by the Committee,[81] an EPA official concluded that the proposed carbon capture approach did not yet meet the legal threshold as a best system of emission reduction (BSER) and was "prohibitively expensive even after use of funds or tax credits."[82]

Figure 6: Internal comment regarding the EPA's Clean Power Plants Rule in EPA Document Production to the Committee[83]


Author

Reviewer expressed concern that (CCUS) has not yet met the legal threshold for being considered a BSER since it has not been adequately demonstrated. There are several factors to consider in determining the feasibility of CCUS. CCUS remains prohibitively expensive even after use of funds or tax credits made available through the Inflation Reduction Act.

Biden Administration officials openly expected the new rule to be challenged in court.[84] But if it ultimately stands, it could lead to compliance costs in the tens of billions of dollars for power generation facilities.[85] In a response to the final rulemaking, PJM Interconnection, the largest U.S. grid operator, notes that "[t]here is very little evidence, other than some limited CSS projects, that this technology and associated transportation infrastructure would be widely

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[79] *New Source Performance Standards for Greenhouse Gas Emissions from New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; Emission Guidelines for Greenhouse Gas Emissions from Existing Fossil Fuel-Fired Electric Generating Units; and Repeal of the Affordable Clean Energy Rule*, 88 Fed. Reg. 33240 (May 23, 2023) (codified at 40 C.F.R. pt. 60), *available at* https://www.federalregister.gov/documents/2023/05/23/2023-10141/new-source-performance-standards-for-greenhouse-gas-emissions-from-new-modified-and-reconstructed.
[80] *Id.*
[81] H. Comm. on Oversight and Accountability, Press Release, *Oversight Committee Obtains Documents Showing Biden Administration is Disregarding the Costs and Illegality of Its Anti-Fossil-Fuel Policies* (Feb. 22, 2024), *available at* https://oversight.house.gov/release/oversight-committee-obtains-documents-showing-biden-administration-is-disregarding-the-costs-and-illegality-of-its-anti-fossil-fuel-policies.
[82] Letter from James Comer, Chairman, H. Comm. on Oversight and Accountability, to Michael S. Regan, Administrator, EPA (Dec. 15, 2023), *available at* https://oversight.house.gov/wp-content/uploads/2023/12/Letter-to-EPA-Unmasking-Comments.pdf.
[83] EPA Production to H. Comm. on Oversight and Accountability, *available on file with Committee Staff*.
[84] Alex Guillen, *The nerd's guide to Biden's new climate rule*, POLITICO (May 11, 2023), *available at* https://www.politico.com/news/2023/05/11/nerds-guide-to-bidens-new-climate-rule-00096501
[85] Mot. for Stay of EPA's Final Rule, *Nat'l Rural Elec. Coop. Ass'n v. U.S. Env't Prot. Agency, et al.*, Nos. 24-1120, -1121, -1122, -1124, -1126 (D.C. 2024).

available throughout the country in time to meet the compliance deadlines under the Rule."[86] By charging forward with ill-conceived rules directly targeting coal and natural gas power plants—which remain some of our most affordable and reliable sources of power generation—consumers have reason to be concerned about the long-term implications for electricity pricing and reliability.

Distorted Electricity Markets Created through IRA Implementation

The so-called Inflation Reduction Act (IRA) provided hundreds of billions of dollars in federal subsidies for "clean" power generation. This effectively means that higher costs of generating electricity by some sources will be borne by consumers through their taxes rather than directly on their utility bills or increased costs for goods and services. The total increase in cost is thereby made nearly impossible to calculate accurately. On March 12, 2024, the Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs held a hearing titled, "The Power Struggle: Examining the Reliability and Security of America's Electrical Grid," featuring testimony from an expert witness who explained how the IRA will distort markets:

> By providing unlimited amounts of subsidies to intermittent resources like wind and solar energy, the IRA erodes the economics of dispatchable resources. Unlimited is the operative word. If we look beyond the 10-year budget window, the cost of the IRA credits could increase and remain high for years, perhaps indefinitely. That is because the 'applicable year' when the production tax credit (PTC) in the IRA is supposed to phase down is triggered by a greenhouse gas (GHG) reduction target that is impossible to meet. Specifically, GHG emissions in the electricity sector must fall to 25 percent of their 2022 level for the PTC to begin to phase down. The total cost of energy credits in the IRA is an unstable number with no reasonable cap.[87]

That expert estimates that IRA production tax credits could cost taxpayers $3 trillion by the year 2050.[88]

At the same hearing, a recently departed Federal Energy Regulatory Commission (FERC) Commissioner lamented the misguided direction of IRA electricity investments, casting doubt on the feasibility of the capital-intensive investments needed to improve transmission capacity to

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[86] PJM, Press Release, *PJM Statement on the Newly Issued EPA Greenhouse Gas and Related Regulations* (May 8, 2024), *available at* https://www.pjm.com/-/media/about-pjm/newsroom/2024-releases/20240508-pjm-statement-on-the-newly-issued-epa-greenhouse-gas-and-related-regulations.ashx.
[87] *The Power Struggle: Examining the Reliability and Security of America's Electrical Grid: Hearing Before the H. Comm. on Oversight and Accountability, Subcomm. on Economic Growth, Energy Policy, and Regulatory Affairs*, 118th Cong. (Mar. 12, 2024) (statement of Travis Fisher, Dir. of Energy and Environmental Studies, Cato Inst.).
[88] *Id.*

harness large-scale deployments of renewable-sourced electricity.[89]

The Consumer Cost of the Green Finger on the Scale

By shifting national incentives to disproportionately favor intermittent sources of power, such as wind and solar, the Biden Administration is artificially suppressing the true cost of renewables through subsidies. Nuclear power generation continues to face lengthy licensing and permitting timelines leading to increased costs, limiting nuclear power's market potential as a low-carbon alternative.[90] The Biden Administration's resistance to permitting and approving additional natural gas pipelines will be particularly harmful to areas of the country that rely on natural gas for heating or power generation.

As Americans face increasing financial burdens imposed by the Biden Administration's policies, artificial government-mandated transformations of energy markets could not come at a worse time. The Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs held a hearing on March 29, 2023, featuring expert witnesses who testified about rising energy costs and their impact on inflation. One expert witness explained:

> Rising energy costs and inflation have created immense financial burdens on the American people. One in six American families is currently behind on electricity bills.[91] The cost for an average household has risen approximately $10,000 over the past two years.[92] Everyday goods like groceries and gas are exorbitantly expensive. […] These costs are squeezing the middle class and making it virtually impossible for low-income Americans to ever cross the middle-class threshold. Most concerning, some families have been forced to choose between powering their homes or putting food on the table.[93]

The long-lasting consequences of Biden Administration policies imposed on consumers are only just beginning to surface. America's electrical grid is under threat from shortsighted

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[89] *The Power Struggle: Examining the Reliability and Security of America's Electrical Grid: Hearing Before the H. Comm. on Oversight and Accountability, Subcomm. on Economic Growth, Energy Policy, and Regulatory Affairs*, 118th Cong. (Mar. 12, 2024) (statement of James P. Danly, former Commissioner, Federal Energy Regulatory Commission).

[90] *The Next Generation: Empowering American Nuclear Energy: Hearing Before the H. Comm. on Oversight and Accountability, Subcomm. on Economic Growth, Energy Policy, and Regulatory Affairs*, 118th Cong. (Jan. 18, 2024).

[91] [FOOTNOTE IN ORIGINAL] Katherine Blunt and Jennifer Hiller, *Electric Bills Soar Across the Country as Winter Looms*, WALL ST. J. (Sept. 18, 2022), *available at* https://www.wsj.com/articles/electric-bills-soar-across-the-country-as-winter-looms-11663493404.

[92] [FOOTNOTE IN ORIGINAL] Brian Reidl, *The pain isn't goin' away: Inflation cost households an extra $10K*, N.Y. POST (Dec. 22, 2022) *available at* https://nypost.com/2022/12/22/the-pain-isnt-goin-away-inflation-cost-households-an-extra-10k/.

[93] *Fueling Unaffordability: How the Biden Administration's Policies Catalyzed Global Energy Scarcity and Compounded Inflation: Hearing Before the H. Comm. on Oversight and Accountability, Subcomm. on Economic Growth, Energy Policy, and Regulatory Affairs*, 118th Cong. (Mar. 29, 2023) (statement of Mandy Gunasekara, Director, Center for Energy and Conservation, Independent Women's Forum).

"green-at-all-costs" policies aimed at appeasing climate activists at the peril of consumers. Projected demand growth and shifting dynamics in residential, commercial, and industrial sectors are creating massive logistical hurdles for energy regulators while the Biden Administration continues to double down on new regulatory challenges. Indeed, the North American Electric Reliability Corporation noted "Energy Policy" as the number one threat facing our electrical grid in their 2023 report.[94]

[94] North American Electric Reliability Corp., *2023 ERO Reliability Risk Priorities Report* (Aug. 17, 2023), *available at* https://www.nerc.com/comm/RISC/ERO_Priorities_Report_2023_Board_Approved_Aug_17_2023.pdf

ELIMINATING CONSUMER CHOICE

Executive action, agency rulemaking, and sweeping legislation passed by Democrat-controlled Congresses intend to force change in U.S. consumer habits to achieve net-zero emissions goals. Biden Administration policies are forcing private companies to eliminate offerings for consumers. The Biden Administration has made clear that it does not want to trust consumers to choose what is best for them. In President Biden's America, consumers will only have the option to use products approved by Democrats.

Cars and Trucks

Through executive order, the President Biden mandated a goal that "50 percent of all new passenger cars and light trucks sold in 2030 be zero-emission vehicles, including battery electric, plug-in hybrid electric, or fuel cell electric vehicles."[95] EVs made up about 7.6 percent of U.S. auto sales in 2023, but remain an even smaller percentage of all cars on the road nationwide.[96] Stricter emissions standards[97]—the "most ambitious pollution standards ever for cars and trucks"[98]— implemented by President Biden's EPA seek to fundamentally restructure the vehicle market to favor EVs.[99] The proposed standards for light-duty vehicles sought automakers' entire fleets to average at or below GHG emissions standards as much as 76 percent lower than current levels.[100] Soon after the rule was finalized, an expert testified to the Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs that consumers, even those purchasing conventional vehicles, will bear extra costs as a result of the rule:

> EPA estimates that its new light-duty standards will by themselves impose $870 billion in vehicle technology costs on consumers… automakers are

[95] E.O. 14037, 86 Fed. Reg. 43583.

[96] Christopher Mims, *Why America Isn't Ready for the EV Takeover*, WALL ST. J. (June 9, 2023) *available at* https://www.wsj.com/articles/tesla-gm-ford-biden-administration-ev-charging-5914f547.

[97] *Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light- Duty and Medium-Duty Vehicles*, 88 Fed. Reg. 29184 (Apr. 18, 2024) (40 C.F.R. pt. 85, 86, 600, 1036, 1037, 1066, 1068), *available at* https://www.federalregister.gov/documents/2024/04/18/2024-06214/multi-pollutant-emissions-standards-for-model-years-2027-and-later-light-duty-and-medium-duty ; *Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles-Phase 3*, 89 Fed. Reg. 29440 (Apr. 22, 2024) (40 C.F.R. pt. 86, 1036, 1037, 1039, 1054, 1065), *available at* https://www.federalregister.gov/documents/2024/04/22/2024-06809/greenhouse-gas-emissions-standards-for-heavy-duty-vehicles-phase-3.

[98] EPA, Press Release, *Biden-Harris Administration Proposes Strongest-Ever Pollution Standards for Cars and Trucks to Accelerate Transition to a Clean-Transportation Future* (April 12, 2023), *available at* https://www.epa.gov/newsreleases/biden-harris-administration-proposes-strongest-ever-pollution-standards-cars-and

[99] American Action Forum, Douglas Holtz-Eakin, *EPA's Kick in the Tailpipe* (Mar. 21, 2024), *available at* https://www.americanactionforum.org/daily-dish/epas-kick-in-the-tailpipe/.

[100] EPA, Program Announcement, *Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles* (April 2023), *available at* https://www.epa.gov/system/files/documents/2023-04/420f23009.pdf.

losing $20–60 thousand per EV they sell and make up the difference by raising prices on conventional vehicles.[101]

Automakers have begun to phase out production of some of their historically popular gas-powered models.[102] General Motors (GM) recently cancelled production of its Chevrolet Malibu sedan beyond 2024,[103] marking the end of 10 million car sales since 1964[104] as GM plans to reconfigure its factory in Kansas City, Kansas to produce Chevrolet Bolt EVs.[105] To produce EVs, Ford announced the discontinuation of its Escape, Edge, and Transit internal combustion engine vehicles.[106] The popular Chrysler 300 sedan, the Stellantis, has also been discontinued in 2024.[107] Chrysler CEO Chris Muell admitted last fall that "[i]t made me kind of sad to see a lot of the [original equipment manufacturers] walking away from the car segment."[108]

Consumer demand has not reflected the Biden Administration's vision for American drivers in an all-electric future. Automakers continue to report millions of dollars in losses on EVs.[109] Automakers have already begun scaling back initially announced investments in EVs to production targets more in line with consumer demand—*CNBC* reports Ford Motor, General Motors, Mercedes-Benz, Volkswagen, Jaguar Land Rover, and Aston Martin are scaling back or delaying their EV plans.[110] In 2021, Mercedes-Benz announced plans to switch to all electric by

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[101] *Drilling Down: Oversight of the Challenges and Opportunities Facing U.S. Energy Production: Hearing Before the H. Comm. on Oversight and Accountability*, *Subcomm. on Economic Growth, Energy Policy, and Regulatory Affairs*, 118th Cong. (Apr. 23, 2024) (statement of Ron Gusek, President, Liberty Energy).

[102] Peter Valdes-Dapena, *The Chevy Malibu, the brand's last sedan, will end production*, CNN (May 10, 2024), *available at* https://www.cnn.com/2024/05/09/business/chevrolet-killing-off-chevy-malibu-sedan/index.html.

[103] Sean Tucker, *Chevy Malibu Canceled After November*, KELLEY BLUE BOOK (May 9, 2024), *available at* https://www.kbb.com/car-news/chevy-malibu-canceled-after-november/.

[104] Justin Westbrook, *The Chevrolet Malibu Is Finally Dying, Guess What'll Replace It?*, MOTORTREND (May 9, 2024), *available at* https://www.motortrend.com/news/chevrolet-malibu-production-ending-2024-next-gen-chevy-bolt-ev-production/.

[105] Peter Valdes-Dapena, *The Chevy Malibu, the brand's last sedan, will end production*, CNN (May 10, 2024), *available at* https://www.cnn.com/2024/05/09/business/chevrolet-killing-off-chevy-malibu-sedan/index.html.

[106] Jaelyn Campbell, *Ford discontinues three gas vehicles to make room for its new EV lineup*, CBT NEWS (Aug. 30, 2023), *available at* https://www.cbtnews.com/ford-discontinues-three-gas-vehicles-to-make-room-for-its-new-ev-lineup/.

[107] Kunes Country Chrysler Jeep Dodge Ram, Matthew Kroll, *Chryslers Being Discontinued in 2024* (Dec. 28, 2023), *available at* https://kunescountrychryslerdodgejeepram.com/blog/chryslers-being-discontinued-in-2024.

[108] Breana Noble, *Chrysler CEO forecasts 'resurgence in car segment'*, DETROIT NEWS (Nov. 8, 2023), *available at* https://www.detroitnews.com/story/business/autos/chrysler/2023/11/08/chrysler-ceo-chris-feuell-forecasts-resurgence-car-segment/71501993007/.

[109] *The EV Red Ink Keeps Coming*, WALL ST. J. (May 8, 2024), *available a*t https://www.wsj.com/articles/electric-vehicle-manufacturer-losses-lucid-subsidies-1102e2de.

[110] Michael Wayland, *EV euphoria is dead. Automakers are scaling back or delaying their electric vehicle plans*, CNBC (Mar. 13, 2024), *available at* https://www.cnbc.com/2024/03/13/ev-euphoria-is-dead-automakers-trumpet-consumer-choice-in-us.html.

2030,[111] but now those commitments have been walked back to allow customer demand to "set the pace" for production targets for gas-powered vehicles and EVs.[112]

In response to waning consumer demand and major industry losses, the Biden Administration relaxed tax rules assisting automakers in the short term, effectively ceding EV production sources to critical mineral supply chains of foreign adversaries like the People's Republic of China (PRC) for EV components.[113] The PRC currently dominates the world's EV battery market, producing about 90 percent of raw materials,[114] and 77 percent of global EV battery manufacturing capacity.[115] The PRC also controls large segments of the world's critical minerals supply chain, producing 72 percent of global refined cobalt, 98 percent of global gallium, and 85 percent of global refined rare earths.[116] In addition to the national security risks presented by U.S. reliance on foreign nations for critical minerals and products, dependence on countries like the Democratic Republic of Congo, which sources about 70 percent of the global raw cobalt supply extracted via child labor,[117] poses serious human rights concerns.

It should be noted that EVs seldom substitute completely for traditional gas-powered vehicles, and middle- and lower-income Americans see less benefit from the Biden Administration's EV push. Most EVs are purchased by upper-income households as second cars and are typically driven less than owners' primary, gas-powered vehicles.[118] EVs are also much less predictable and less energy-dense than their gas-powered counterparts, with ranges up to 60 percent less than comparable gas-powered models.[119] According to AAA, an EV's range can decrease by 40 percent when the temperature decreases from 75 to 20 degrees Fahrenheit or when the vehicle's other systems, such as heating or cooling, are used.[120]

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[111] Mercedez-Benz, Press Release, *Mercedes-Benz prepares to go all-electric* (July 22, 2021), *available at* https://media.mbusa.com/releases/release-ee5a810c1007117e79e1c871354679e4-mercedes-benz-prepares-to-go-all-electric

[112] Jordan Hart, *Mercedes Benz ditches plan to sell only EVs by 2030*, YAHOO! NEWS (Feb. 23, 2024), *available at* https://www.yahoo.com/news/mercedes-benz-ditches-plan-sell.html

[113] Hannah Northey and Mike Lee, *Biden's EV tax credit rule offers big concession for automakers*, E&E NEWS (May 3, 2024), *available at* https://www.eenews.net/articles/bidens-ev-tax-credit-rule-offers-big-concession-for-automakers/.

[114] *2022-2040 Powertrain Outlook*, VISUAL CAPITALIST (Sept., 2022), at 16, *available at* https://www.visualcapitalist.com/wp-content/uploads/2022/10/The-EV-Outlook-2030-2040.pdf.

[115] Christina Lu, *The Critical Minerals Club*, FOREIGN POLICY (Apr. 14, 2023), *available at* https://foreignpolicy.com/2023/04/14/us-china-critical-mineral-security-europe-rare-earth-energy-transition/.

[116] Tessa Di Grandi, *Visualized: The EV Mineral Shortage*, VISUAL CAPITALIST (Feb. 8, 2023), *available at* https://www.visualcapitalist.com/sp/how-mineral-supply-will-change-ev-forecasts/.

[117] Gregory D. Wischer, *Industry Perspective: U.S. Needs Industrial Policy for Critical Minerals*, NATIONAL DEFENSE (Feb. 14, 2023), *available at* https://www.nationaldefensemagazine.org/articles/2023/2/14/us-needs-industrial-policy-for-critical-minerals.

[118] Ted Nordhaus and Ashley Nunes, *Don't Expect Mass Adoption of Electric Cars Anytime Soon*, WALL ST. J. (Apr. 13, 2023), *available at* https://www.wsj.com/articles/dont-expect-mass-adoption-of-electric-cars-anytime-soon-fc60d894.

[119] *Id.*

[120] Jennifer Geiger, *How Well Do Electric Cars Work in Cold Weather?* CARS.COM (Dec. 13, 2022), *available at* https://www.cars.com/articles/how-well-do-electric-cars-work-in-cold-weather-459914/.

Consumers seeking to charge their EVs frequently encounter problems with availability and reliability of chargers. The Biden Administration's EPA and DOE attempt to refute arguments that "there is nowhere to charge" and that "there's a lack of charging infrastructure" for EVs in promotional materials on their websites.[121] But the Administration rightfully receives little trust from consumers on these issues in the face of repeated public fumbling of basic duties related to EVs.

DOE Secretary Jennifer Granholm's now-famous—and disastrous—four-day summer 2023 EV road trip intended to showcase the Biden Administration's progress on EVs proved a troubling but realistic odyssey for consumers under President Biden's EV mandates.[122] The result of the taxpayer-funded trip: an illustration of the lack of available chargers culminating in an emergency call made by civilians as DOE staff intentionally blocked a charger with a gas-powered vehicle.[123] On September 26, 2023, the Committee wrote Secretary Granholm explaining how her taxpayer-funded publicity stunt highlighted how out of touch the Biden Administration is with American consumers and the consequences of its policies.[124]

And the *Washington Post* reports that, as of late March 2024, the $7.5 billion of funds included in the Infrastructure Investment and Jobs Act for EV charging infrastructure—signed into law in November 2021—has so far yielded "only seven EV charging stations across four states."[125] One EV industry expert explained that "the incentive right now is to get stations in the ground…It's not making sure they actually work."[126]

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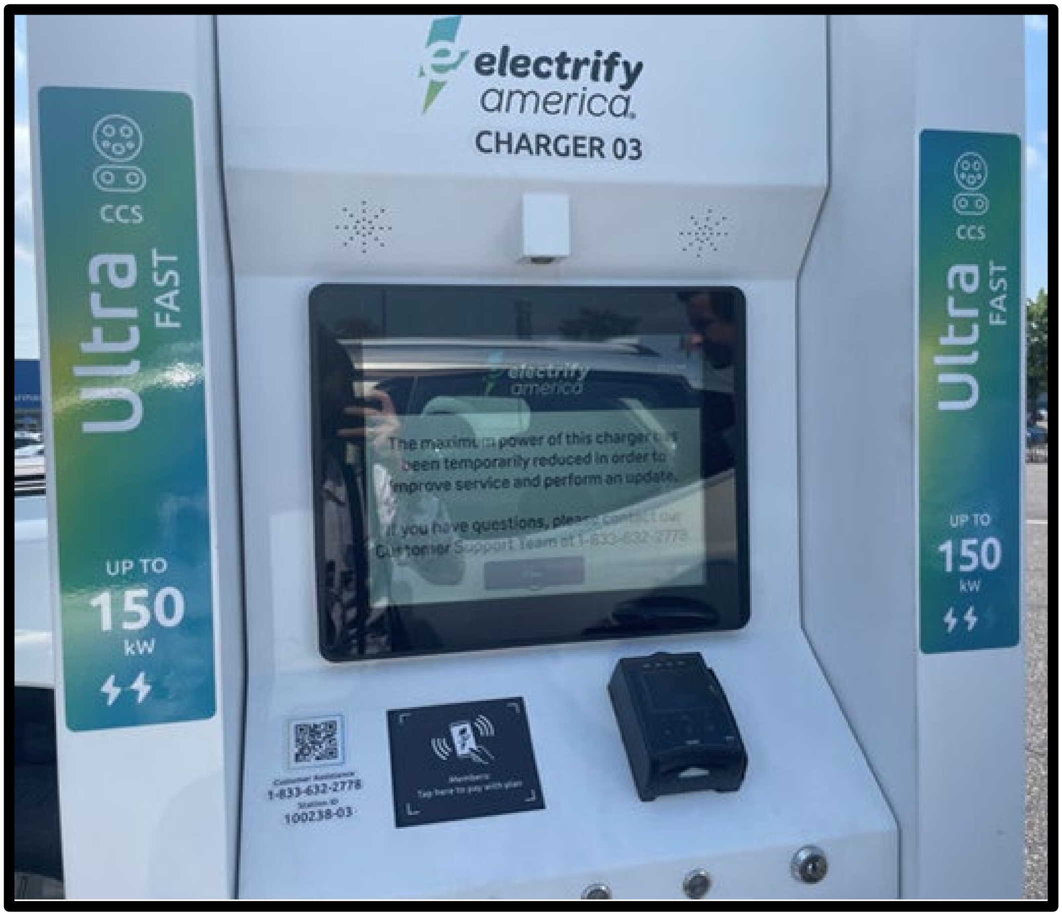
[121] EPA, Green Vehicle Guide, *Electric Vehicle Myths*, *available at* https://www.epa.gov/greenvehicles/electric-vehicle-myths#Myth4 (last visited May 15, 2024); Dep't of Energy, Malarkey Corner, *Correcting The Record About Electric Vehicle Sales* (Nov. 9, 2023), *available at* https://www.energy.gov/articles/correcting-record-about-electric-vehicle-sales.
[122] Letter from James Comer, Chairman, H. Comm. on Oversight and Accountability, and Pat Fallon, Chairman, Subcomm. on Economic Growth, Energy Policy, and Regulatory Affairs, to Jennifer Granholm, Sec'y, Dep't of Energy (Sept. 26, 2023), *available at* https://oversight.house.gov/wp-content/uploads/2023/09/Letter-to-DOE-re-2023-Summer-EV-Road-Trip.pdf.
[123] *Id.*
[124] *Id.*
[125] Shannon Osaka, *Biden's $7.5 billion investment in EV charging has only produced 7 stations in two years*, WASH. POST (Mar. 29, 2024), *available at* https://www.washingtonpost.com/climate-solutions/2024/03/28/ev-charging-stations-slow-rollout/.
[126] Morgan Korn, *Electric vehicle drivers get candid about charging: 'Logistical nightmare'*, ABC NEWS (Feb. 26, 2023), *available at* https://abcnews.go.com/Business/broken-machines-long-waits-reality-charging-electric-vehicle/story?id=97389275.

Figure 7: An EV charging station reads "The maximum power of this charger has been temporarily reduced in order to improve service and perform an update" on DOE Secretary Granholm's summer 2023 EV road trip[127]



Gas Stoves

On February 1, 2023, DOE released a proposed rule intended to impose stricter energy requirements on gas stoves.[128] The proposed rule would substantially constrict consumer choice by eliminating popular features, such as cast-iron grates and high-input power burners.[129] The resulting energy savings touted by the Administration are laughably small in practice. One

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[127] Camila Domonoske*, Electric cars have a road trip problem, even for the secretary of energy*, NPR (Sept. 10, 2023), *available at* https://www.npr.org/2023/09/10/1187224861/electric-vehicles-evs-cars-chargers-charging-energy-secretary-jennifer-granholm.

[128] *Energy Conservation Program: Energy Conservation Standards for Consumer Conventional Cooking Products*, 88 Fed. Reg. 6818 (proposed Feb. 1, 2023, corrected Feb. 28, 2023) (codified at 10 C.F.R. pt. 429, 430), *available at* https://www.federalregister.gov/documents/2023/02/01/2023-00610/energy-conservation-program-energy-conservation-standards-for-consumer-conventional-cooking-products.

[129] American Gas Ass'n, Press Release, *AGA: DOE's Proposed Rule is Ill-Conceived, Analytically Unsupportable and Anti-Consumer*, *available at* https://www.aga.org/news/news-releases/aga-does-proposed-rule-is-ill-conceived-analytically-unsupportable-and-anti-consumer/.

expert testified to the Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs that:

> [T]his extraordinary regulatory action would result in consumer cost savings for gas cooktops amounting to a scant $1.51 per year. In other words, a savings of just $21.89 for the entire projected 14.5-year life span of the appliance.[130]

On January 29, 2024, DOE finalized energy efficiency standards for gas stoves and other residential cooking products.[131] While this final rule is fortunately a watered-down version of the unpopular proposed rule, the Committee maintains its concern that DOE has not adequately justified the rulemaking's legality, and bases its action on a shoddy economic analysis.

Lightbulbs

On May 9, 2022, DOE published a final rule ultimately prohibiting the manufacture, distribution, and sale of most halogen and incandescent light bulbs in the U.S.[132] Incandescent light bulbs have illuminated Americans' lives for nearly 150 years.[133] To add insult to injury, on April 12, 2024, DOE released a final rule for Light-Emitting Diode (LED) bulbs[134]—a product that substitutes for incandescent bulbs—estimated to increase the price of an LED bulb nearly 91 percent.[135]

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[130] *Consumer Choice on the Backburner: Examining the Biden Administration's Regulatory Assault on Americans' Gas Stoves: Hearing Before the H. Comm. on Oversight and Accountability, Subcomm. on Economic Growth, Energy Policy, and Regulatory Affairs*, 118th Cong. (May 24, 2023) (statement of Matthew Agen, Chief Regulatory Counsel, American Gas Ass'n).

[131] Dep't of Energy, Press Release, *DOE Finalizes Cost-Saving Efficiency Standards for New Cooking Products, Based on Recommendations from Manufacturers and Consumer Advocates* (Jan. 29, 2024), *available at* https://www.energy.gov/articles/doe-finalizes-cost-saving-efficiency-standards-new-cooking-products-based-recommendations.

[132] *Energy Conservation Program: Energy Conservation Standards for General Service Lamps*, 87 Fed. Reg. 27461 (May 9, 2022) (codified at 10 C.F.R. pt. 430), *available at* https://www.govinfo.gov/content/pkg/FR-2022-05-09/pdf/2022-09477.pdf.

[133] Dep't of Energy, *The History of the Light Bulb* (Nov. 22, 2013), *available at* https://www.energy.gov/articles/history-light-bulb.

[134] *Energy Conservation Program: Energy Conservation Standards for General Service Lamps*, 89 Fed. Reg. 28856 (Apr. 19, 2024) (codified at 10 C.F.R. pt. 430), *available at* https://www.federalregister.gov/documents/2024/04/19/2024-07831/energy-conservation-program-energy-conservation-standards-for-general-service-lamps.

[135] Competitive Enterprise Inst., Ben Lieberman, *Department of Energy is coming after our light bulbs – again* (Apr. 19, 2024), *available at* https://cei.org/blog/department-of-energy-coming-after-our-light-bulbs-again/.

Dishwashers

On May 19, 2023, DOE published a proposed rule for dishwashers which would impose stricter energy requirements[136] at the expense of functionality. The rule would effectively force consumers to run their dishwasher multiple times, or for longer periods of time, to get their dishes clean.[137] DOE's own estimates are that the proposed rule would cost industry approximately $125.6 million and consumers $150 million through 2056.[138] Further, DOE estimates that the proposed rule would save consumers only approximately $17 over the entire 15.2-year life of the dishwasher.[139] On April 24, 2024, DOE issued a final rule on dishwashers that goes into effect on August 22, 2024.[140]

Clothes Dryers

On August 23, 2022, DOE published a proposed rule which would impose new energy efficiency standards on both electric and gas clothes dryers,[141] again at the expense of functionality. The rule would ultimately force consumers to run their dryer multiple times, or for longer periods of time, to get their clothes dry.[142] On February 29, 2024, DOE issued the final rule for clothes dryers.[143] Manufacturers will have until 2027 to meet this standard, with compliance costs estimated by DOE to be $149.7 million.[144] Of course, these compliance costs will ultimately largely be passed along to consumers.

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[136] *Energy Conservation Program: Energy Conservation Standards for Dishwashers*, 88 Fed. Reg. 32514 (May 19, 2023) (codified at 10 C.F.R. pt. 430), *available at* https://www.federalregister.gov/documents/2023/05/19/2023-09969/energy-conservation-program-energy-conservation-standards-for-dishwashers.

[137] *Comments of Competitive Enterprise Institute, AMAC Action, America First Policy Institute, American Consumer Institute, Americans for Prosperity, Caesar Rodney Institute, Center of the American Experiment, Consumers' Research, Energy & Environment Legal Institute, Foundation Supporting Climate Science, Free Enterprise Project, Heartland Institute, Heritage Foundation, Independent Women's Forum, Independent Women's Voice, Institute for Energy Research, John Locke Foundation, Project 21, Rio Grande Foundation, Roughrider Policy Center*, *Energy Conservation Program: Energy Conservation Standards for Dishwashers*, 88 Fed. Reg. 32514 (May 19, 2023) (codified at 10 C.F.R. pt. 430), *available at* https://cei.org/regulatory_comments/comment-on-energy-conservation-standards-for-dishwashers/.

[138] *Supra* note 137.

[139] *Id.*

[140] *Energy Conservation Program: Energy Conservation Standards for Dishwashers*, 89 Fed. Reg. 31398 (Apr. 24, 2024) (codified at 10 C.F.R. pt. 430), *available at* https://www.federalregister.gov/documents/2024/04/24/2024-08212/energy-conservation-program-energy-conservation-standards-for-dishwashers.

[141] *Energy Conservation Program: Energy Conservation Standards for Consumer Clothes Dryers*, 87 Fed. Reg. 51734 (Aug. 23, 2022) (codified at 10 C.F.R. pt. 430), *available at* https://www.federalregister.gov/documents/2022/08/23/2022-17900/energy-conservation-program-energy-conservation-standards-for-consumer-clothes-dryers.

[142] *See AHAM Comments on DOE's Notice of Proposed Rulemaking to Amend Energy Conservation Standards for Residential Clothes Dryers*; Docket No. EERE-2014-BTSTD-0058; RIN 1904-AD99, *available at* https://www.regulations.gov/comment/EERE-2014-BT-STD-0058-0046.

[143] Dep't of Energy, Press Release, *DOE Finalizes Efficiency Standards for Residential Clothes Washers and Clothes Dryers to Save Americans Billions on Household Energy and Water Bills* (Feb. 29, 2024), *available at* https://www.energy.gov/articles/doe-finalizes-efficiency-standards-residential-clothes-washers-and-clothes-dryers-save.

[144] *Supra* note 142.

Washing Machines

On March 3, 2023, DOE published a proposed rule for clothes washers which would impose stricter energy and water conservation standards,[145] yet again at the expense of functionality. The rule would force consumers to run their washer multiple times, or for longer periods of time, to get their clothes clean.[146] DOE's own analysis shows that a top-loading washing machine model complaint under their proposed rule would only save consumers about $10 per year, while a compliant front-loading machine would save less than $1.50 per year—a nearly negligible cost savings.[147] One manufacturer warned the new standards would result in higher costs and poor cleaning performance due to lower water and temperature requirements.[148]

Refrigerators

On February 27, 2023, DOE published a proposed rule that would set stricter energy consumption requirements for various products, including refrigerators.[149] The rule would limit the choices for consumers by effectively removing many present-day refrigerator models from the market.[150] According to DOE's analysis, the life-cycle cost savings for the largest product classes of refrigerators only save consumers $0.03 over a period of 9.3 years.[151] Most Americans can expect to find as many forgotten pennies over a decade span. On January 17, 2024, DOE issued the final rule for refrigerators.[152]

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[145] *Energy Conservation Program: Energy Conservation Standards for Residential Clothes Washers*, 88 Fed. Reg. 13520 (Mar. 3, 2023) (codified at 10 C.F.R. pt. 430), *available at* https://www.federalregister.gov/documents/2023/03/03/2023-03862/energy-conservation-program-energy-conservation-standards-for-residential-clothes-washers.

[146] *See AHAM Comments on DOE's Notice of Proposed Rulemaking on Energy Conservation Standards for Residential Clothes Washers*; Docket No. EERE-2017-BT-STD-0014; RIN 1904-AD98, *available at* https://www.regulations.gov/comment/EERE-2017-BT-STD-0014-0464.

[147] Dep't of Energy, *Technical Support Document: Energy Efficiency Program for Consumer Products and Commercial and Industrial Equipment: Residential Clothes Washers* (Feb. 2023), *available at* https://www.regulations.gov/document/EERE-2017-BT-STD-0014-0058.

[148] Breanne Deppisch, *New DOE efficiency rules could make washing machines more costly and less effective, manufacturers warn,* WASH. EXAMINER (Mar. 15, 2023), *available at* https://www.washingtonexaminer.com/policy/energy-environment/new-doe-efficiency-rules-washing-machines-more-costly-less-effective-manufacturers-warn.

[149] *Energy Conservation Program: Energy Conservation Standards for Refrigerators, Refrigerator-Freezers, and Freezers*, 88 Fed. Reg. 12452 (Feb. 27, 2023) (codified at 10 C.F.R. pt. 430), *available at* https://www.govinfo.gov/content/pkg/FR-2023-02-27/pdf/2023-03436.pdf.

[150] *Whirlpool Comments to the U.S. Department of Energy's Notice of Proposed Rulemaking on Energy Conservation Standards for Refrigerators, Refrigerator-Freezers, and Freezers* (EERE-2017-BT-STD-0003), *available at* https://www.regulations.gov/comment/EERE-2017-BT-STD-0003-0070.

[151] *Supra* note 150.

[152] *Energy Conservation Program: Energy Conservation Standards for Refrigerators, Refrigerator-Freezers, and Freezers*, 89 Fed. Reg. 3026 (Jan. 17, 2024) (codified at 10 C.F.R. pt. 430), *available at* https://www.federalregister.gov/documents/2024/01/17/2023-28978/energy-conservation-program-energy-conservation-standards-for-refrigerators-refrigerator-freezers.

Burdening Businesses and Limiting Consumer Spending Power

Since assuming office on January 20, 2021, the Biden Administration has pursued a "whole-of-government" regulatory blowout with substantial compliance costs for businesses and consumers. Across all agencies, the Biden Administration has already imposed over $1 trillion in additional total regulatory costs and added millions of hours of new annual paperwork demands.[153]

Regulations and the Energy Sector

As the regulatory onslaught compounds, the most impacted are low-income communities through increased electricity prices and vehicle costs, and people on fixed incomes based on savings or investments—like retirees—through climate disclosure mandates and Environmental, Social, and Governance (ESG) rules suppressing returns.[154] As firms pass along tax obligations to consumers, regulatory compliance serves as an additional "hidden tax" impacting both consumer prices and wages. Forcing more and more resources to be spent navigating the ever-growing and complex regulatory burden diverts time and money away from growing businesses and fostering economic mobility.

The Committee held a hearing on June 14, 2023, titled, "Death by a Thousand Regulations: The Biden Administration's Campaign to Bury America in Red Tape," during which expert witnesses detailed the economic challenges posed by the Administration's heavy-handed approach to regulation. One expert testified to the balance that must be struck when evaluating regulations and the consequences of overregulation on households:

> We are often spurred to act in favor of regulation because of accidents and disasters, and that is a good thing. But we also need to be spurred toward caution of over-regulation and the cumulative cost of regulations because of the other disasters that do not attract headlines, the disasters of families that do not have enough employment income, jobs that are lost, innovations and startups that are lost. The lost opportunity for the United States and its small businesses and large businesses to supply the world with natural resources that we can produce much more cleanly and safely than other nations, each of those is a disaster.[155]

[153] American Action Forum, Dan Goldbeck, *A Trillion-Dollar Year*, (Apr. 29, 2024), *available at* https://www.americanactionforum.org/week-in-regulation/a-trillion-dollar-year/.
[154] *See ESG Part II: The Cascading Impacts of ESG Compliance, Hearing Before the H. Comm. on Oversight and Accountability, Subcomm. on Economic Growth, Energy Policy, and Regulatory Affairs and Subcomm. on Healthcare and Financial Services*, 118th Cong. (June 6, 2023) (statement of Mandy Gunasekara, Director, Center for Energy and Conservation, Independent Women's Forum).
[155] *Death by a Thousand Regulations: The Biden Administration's Campaign to Bury America in Red Tape: Hearing Before the H. Comm. on Oversight and Accountability*, 118th Cong. (June 14, 2023) (statement of Adam White, Co-Executive Dir., The C. Boyden Gray Center for the Study of the Administrative State, George Mason University Antonin Scalia Law School).

Unfortunately, it appears that the Biden Administration has rejected this needed balance in favor of big-government mandates to satisfy fringe interests at the expense of American consumers and businesses. According to one thinktank, "if it were a country, U.S. regulation would be the world's eighth-largest economy (not counting the United States itself), ranking behind France and ahead of Italy."[156] That thinktank estimates that, as of 2023, "[i]f one assumed that all costs of federal regulation flowed all the way down to households…U.S. households would 'pay' $14,514 annually on average in a hidden regulatory tax," in no small part due to the Biden Administration's regulatory agenda.[157]

The Financial Burden of "Red Tape"

This rapid growth in regulatory costs from the Biden Administration has significant impacts for consumers in every corner of the country. When businesses have less capital to reinvest in their operations and workforce, and instead must allocate increasing amounts of financial resources towards complying with "red tape," this slows opportunities for growth and innovation, and increases prices for consumers. For example, EPA's final rule on methane emissions from oil and gas operations will—by EPA's own estimates—range between $14 billion and $19 billion just in compliance costs alone.[158]

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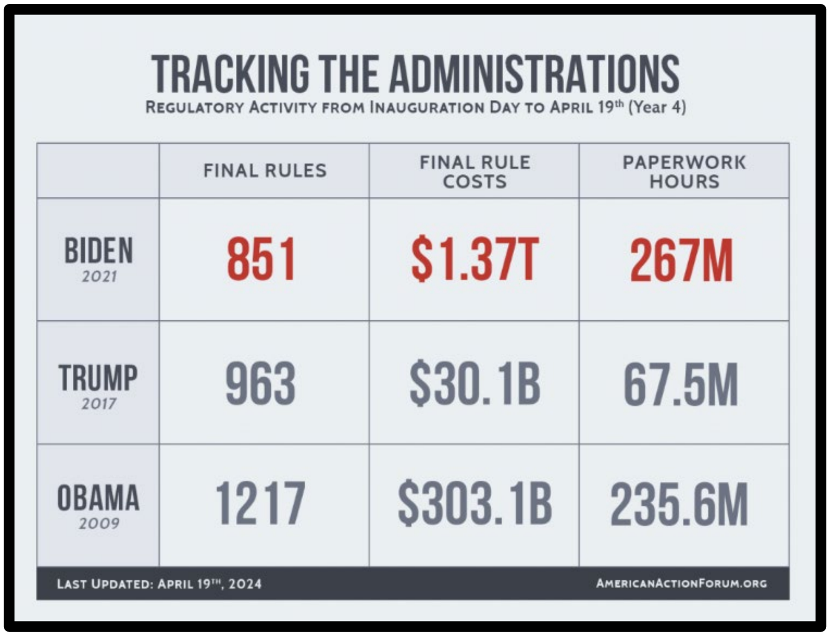
[156] Competitive Enterprise Inst., Clyde Wayne Crews Jr., *Ten Thousand Commandments: An Annual Snapshot of the Federal Regulatory State*, (2023), *available at* https://cei.org/studies/ten-thousand-commandments-2023.
[157] *Id.*
[158] *Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review*, 89 Fed. Reg. 16820 (Mar. 8, 2024) (codified at 40 C.F.R. pt. 60), *available at* https://www.federalregister.gov/documents/2024/03/08/2024-00366/standards-of-performance-for-new-reconstructed-and-modified-sources-and-emissions-guidelines-for

Figure 8: Chart showing the cost of regulations under Presidents Obama, Trump, and Biden[159]



TRACKING THE ADMINISTRATIONS

REGULATORY ACTIVITY FROM INAUGURATION DAY TO APRIL 19th (Year 4)

	FINAL RULES	FINAL RULE COSTS	PAPERWORK HOURS
BIDEN 2021	851	$1.37T	267M
TRUMP 2017	963	$30.1B	67.5M
OBAMA 2009	1217	$303.1B	235.6M

LAST UPDATED: APRIL 19TH, 2024 — AMERICANACTIONFORUM.ORG

U.S. energy producers and electricity markets have experienced significant regulatory challenges under the Biden Administration, which will ultimately be passed along to consumers in the form of higher prices. In recent testimony before the Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs, one energy expert explained:

> [T]his Administration is trying what it calls a 'whole of government' approach: deploying a series of interlocking rulemakings, spread across time and different agencies to thwart straightforward legal challenges and maximize its regulatory agenda's chances of success…[t]hese regulations attack all stages of energy production and use, limiting initial capital formation, adding costs to all phases of production and transportation, and attempting to dry up demand by adopting aggressive end-use regulations.[160]

ESG-type reporting requirements have created enormous financial burdens on small- and medium-sized businesses. In November 2022, a U.S. Securities and Exchange Commissioner estimated that costs of climate-related mandatory disclosures would rise from $2 billion to $8.4 billion in 2023, assuming a rate of $600 per hour for external legal advice.[161] Estimates from early 2023 suggest that publicly listed companies spend on average between $220,000 and $480,000 per year on costs associated with sustainability ratings, while private companies

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[159] American Action Forum, Dan Goldbeck, *The Biggest Week on Record* (Apr. 22, 2024), *available at* https://www.americanactionforum.org/week-in-regulation/the-biggest-week-on-record/
[160] *Supra* note 101.
[161] Mark T. Uyeda, Comm'r, U.S. Sec. and Exch. Comm'n, *Remarks at the 2022 Cato Summit on Financial Regulation* (Nov. 17, 2022), *available at* https://www.sec.gov/news/speech/uyeda-remarks-cato-summit-financial-regulation.

average around $425,000 per year.[162] Hiring full-time employees to monitor and report on ESG factors is much more difficult for small- to medium-sized businesses than for larger companies with the resources to dedicate entire departments to this type of reporting, thereby driving small- and mid-size businesses out of the market. Increases in the amount of information disclosed as well as rising compliance costs will ultimately fall on the shoulders of investors and consumers in the form of higher prices.

ESG Impacts on Retirement Savings

The Biden Administration prioritizes ESG policies at the expense of Americans' retirements. A Department of Labor (DOL) final rule titled, "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights" allows fiduciaries—who should be working to maximize return on investment for their clients relative to their risk tolerance—to consider climate change as well as other ESG factors when making investment decisions.[163] Under this rule, the retirement funds of over 152 million Americans', regulated under the Employee Retirement Income Security Act (ERISA),[164] are at risk of managers' maximizing political agendas over financial returns.[165] Both chambers of Congress passed a bipartisan resolution to overturn the rule under the Congressional Review Act, but President Biden vetoed that resolution on March 20, 2023.[166]

A recent study found that proxy advisors are actively voting for left-wing shareholder resolutions that may or will reduce shareholder returns and, in turn, lower pensions.[167] Despite not being labeled as ESG funds, many funds have a pro-ESG orientation that devalues returns.[168] ESG funds themselves perform worse than non-ESG funds and typically require higher fees.[169] Poor-performing funds with high fees jeopardize savings, especially for retirement. In December 2023, the U.S. retirement market comprised $38.4 trillion with federal, state, and local

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[162] *Companies Pay Up to $500,000 for Sustainability Ratings – Report*, REUTERS (Mar. 27, 2023), *available at* https://www.reuters.com/business/sustainable-business/companies-pay-up-500000-sustainability-ratings-report-2023-03-27/.

[163] *Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights*, 87 Fed. Reg. 73822 (Dec. 1, 2022) (codified at 29 C.F.R. pt. 2550), *available at* https://www.federalregister.gov/documents/2022/12/01/2022-25783/prudence-and-loyalty-in-selecting-plan-investments-and-exercising-shareholder-rights.

[164] Employee Retirement Income Security Act, Pub. L. No. 93-406, 88 Stat. 829 (1974).

[165] Sen. Bill Cassidy, Press Release, *Cassidy Votes to Overturn Biden Policy Threatening Americans' Retirement* (Mar. 1, 2023), *available at* https://www.cassidy.senate.gov/newsroom/press-releases/cassidy-votes-to-overturn-biden-policy-threatening-americans-retirement/.

[166] *Providing for Congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Labor relating to "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights"*, H. J. Res. 30, 118th Cong. (Feb. 7, 2023).

[167] Comm. to Unleash Prosperity, *Politics Over Pensions: The First Annual Report Card on Investment Fund Managers and Proxy Voting Behavior* (May 2023), *available at* https://www.pensionpolitics.com/report/.

[168] *Id.*

[169] Aneesh Raghunandan and Shivaram Rajgopal, *Do ESG Funds Make Stakeholder-Friendly Investments?* REV. OF ACCT. STUDIES (May 27, 2022), *available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3826357.

government defined-benefit plans making up $8.7 trillion of the total market.[170] Retirement savings account for 32 percent of all mutual fund assets.[171] While retirement funds themselves can invest in companies through mutual funds or other financial products, individuals can also hold employer stock in their 401(k)s.[172] As such, employees with retirement holdings funneled towards ESG by asset managers' initiatives could not only see their savings underperform, their own assets could be supporting shareholder proposals that directly tank stock value at their employing company and compound retirement losses. The active workforce and retirees alike deserve accountability if their fund managers are prioritizing unproven ideological agendas over their financial futures. But instead of accountability, the Biden Administration uses the power of the federal government to give these asset managers legal cover.

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[170] Investment Co. Inst., Release: Quarterly Retirement Market Data, *Retirement Assets Total $38.4 Trillion in Fourth Quarter 2023* (Mar. 14, 2024), *available at* https://www.ici.org/statistical-report/ret_23_q4.
[171] Investment Co. Inst., *401(k) Plan Research: FAQs*, *available at* https://www.ici.org/faqs/faq/401k/faqs_401k (last visited May 15, 2024).
[172] *Id.*

CONCLUSION: PRESIDENT BIDEN'S DISASTROUS ENERGY LEGACY

The Biden Administration has harnessed the entire federal government to suppress American energy potential, restrict consumer choice, and raise regulatory costs at an unprecedented pace. The Biden Administration inherited a robust, capable, and innovative energy sector, but President Biden refuses to champion American energy, and has actively sought to demonize producers to cover for his own bad decision-making.[173]

From the moment he took office, President Biden has instructed agencies to reverse course on pro-consumer policies that were working. And as if this weren't enough, the Administration gaslights the American people as to who is responsible for their resulting misery. When prices rise as the natural and probable result of President Biden's policies, the President blames anyone but himself and his Administration. He blames world events. He blames domestic energy producers. He blames OPEC+. American's have had enough of President Biden's blame game and denigration of America's energy sector.

Congressional Republicans share a different vision for America's energy future. On March 30, 2023, the Republican-majority House passed H.R. 1, the *Lower Energy Costs Act*, which would reform the permitting process, lower prices for consumers, and help usher in the future of U.S. energy leadership.[174] Of course, the Biden Administration said this "would take us backward" and promised to veto it.[175]

The result of President Biden's failed leadership has been skyrocketing energy and other consumer-goods prices for U.S. consumers and the loss of American energy independence. From cancelling the Keystone XL Pipeline, to ceding U.S. policymaking to European regulators, to imposing sweeping regulations intended to shut down U.S. power plants fired by traditional fuels while forcing Americans into EVs, the Biden Administration has relentlessly attacked traditional American energy. The Biden Administration has set America down a dangerous path of dependency on foreign nations who do not share our interests or values. The consequences of the Biden Administration's policies are already harming U.S. consumers, but the negative impacts will continue to be felt for decades to come.

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[173] *See* Shelby Webb, *4 oil and gas issues to watch in 2024*, E&E NEWS (Jan. 3, 2024), *available at* https://www.eenews.net/articles/4-oil-and-gas-issues-to-watch-in-2024/.
[174] Lower Energy Costs Act, H.R. 1, 118th Cong. (2023).
[175] Executive Office of the President, Office of Mgmt. and Budget, *Statement of Administration Policy: H.R. 1— Lower Energy Costs Act* (Mar. 27, 2023), *available at* https://www.whitehouse.gov/wp-content/uploads/2023/03/H.R.-1-SAP.pdf.