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MARKUP OF H.R. ____, THE GASOLINE REGULATION ACT OF 2012, AND H.R. ____,
THE STRATEGIC ENERGY PRODUCTION ACT OF 2012

MONDAY, APRIL 16, 2012

House of Representatives,
Subcommittee on Energy and Power,
Committee on Energy and Commerce,
Washington, D.C.

The subcommittee met, pursuant to call, at 4:03 p.m., in Room 2123, Rayburn House Office Building, Hon. Ed Whitfield [chairman of the subcommittee] presiding.

Present: Representatives Whitfield, Scalise, Olson, Gardner, Upton (ex officio), Sarbanes, and Waxman (ex officio).

Staff Present: Charlotte Baker, Press Secretary; Maryann Brown, Chief Counsel, Energy and Power; Allison Busbee, Legislative Clerk; Garrett Golding, Professional Staff Member, Energy; Cory Hicks, Policy Coordinator, Energy and Power; Peter Kielty, Associate Counsel; Heidi

King, Chief Economist; Ben Lieberman, Counsel, Energy and Power; Carly McWilliams, Legislative Clerk; Mary Neumayr, Senior Energy Counsel; Katie Novaria, Legislative Clerk; Jen Berenholz, Minority Chief Clerk; Greg Dotson, Energy and Environment Minority Staff Director; Elizabeth Letter, Minority Assistant Press Secretary; Karen Lightfoot, Minority Communications Director and Senior Policy Advisor; and Alexandra Teitz, Minority Senior Counsel, Environment and Energy.

Mr. Whitfield. I would like to call this markup to order, and certainly want to welcome all the members and staff back from the Passover and Easter holiday break. And I am sure that all of you, like me, when you went home, you heard a lot from constituents about a lot of different issues. And certainly one of the issues did relate to gasoline prices. And of course, the markup today is about that issue. Today we are going to be marking up considering two bills, the Strategic Energy Production Act and the Gasoline Regulations Act.

Now we don't view either of these bills as a panacea obviously for fixing this problem of gasoline prices, but we do believe that it is an important first step, at least from our perspective, that can help improve the situation. Some of us do genuinely believe that despite the President's very good intentions of funneling a lot of stimulus money into green energy projects, and which we recognize we must have in the long-term, that they are really not going to do anything in the immediate term in dealing with gasoline prices.

So on the Gasoline Regulations Act of 2012, the legislation simply establishes a temporary interagency committee, chaired by the Secretary of Energy to estimate the cumulative impacts of certain EPA rulemakings, and actions on gasoline and diesel fuel prices, jobs, the economy, as well as other cumulative costs and cumulative benefits, and submit a filed report to the Congress of the analysis that they have developed within 210 days after enactment of the legislation.

And in addition to that, this legislation would defer until at least 6 months after submission of the final report the following new

regulations: Number 1, the tier 3 motor vehicle emission and fuel standards; number 2, the new revised performance emission standards applicable to petroleum refineries; and third, the new ozone standards.

Now some people say, well, my gosh, why are you delaying these because you really don't have any idea of what is going to be in them. However, some of our hearings we know that various interest groups have been meeting with EPA on a regular basis, and they do have some very good ideas of what they anticipate will be coming forward.

And then another issue that is a little bit controversial I recognize is that under this bill, we would require that EPA consider costs and feasibility in setting the new ozone standards. Of course, in the Supreme Court case of *Whitman v. American Trucking Association*, the Court ruled that EPA could not consider cost or even feasibility in the setting of ozone standards, but there is a line in the Court's decision in which the Court, the judges wrote that the Clean Air Act is ambiguous a little bit on that point. So while I recognize there will be a difference of opinion, we do believe that the American people have a right to have considered at least the cost and feasibility of these new regulations.

And then, of course, the second bill relates to the SPRO, the Strategic Energy Production Act, which is introduced by Mr. Cory Gardner of Colorado. And I am not going to get into all of the details of that except to simply say that it provides that if the President decides to do a drawdown from the SPRO that the Secretary of Energy and others would have to develop a plan of how they would go about

replenishing that. The last time that they drew down from the SPRO, which was in June, I guess, 2011, that has not been replenished yet. And of course, the SPRO is for emergency use, and simply bringing down gasoline prices is very important and means a lot to the American people, we have discovered that it does not bring down those prices for very long.

So I think both of these pieces of legislation are important. As I said, they are not a panacea, but they are a first step, and we look forward to working with both sides. I know there will be a lot of amendments and hopefully we can come forth with something that everyone would at least feel comfortable with.

[The prepared statement of Mr. Whitfield follows:]

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Mr. Whitfield. So at this time, I would like to recognize the gentleman from California, Mr. Waxman, for 5 minutes for an opening statement because it is my understanding that Mr. Rush has been delayed and will not be here for a while. So Mr. Waxman, you are recognized for 5 minutes.

Mr. Waxman. Thank you very much, Mr. Chairman. Today we begin marking up two bills that contain the Republican response to gasoline prices. The new Republican energy policy is talk baby talk, and it isn't going to lower prices at the pump by one penny. The Republicans keep saying that President Obama's policies are raising gasoline prices, Chairman Upton said so in the Republican's weekly radio address on Saturday. And they keep pointing out these bills will lower gasoline prices. But as our mothers taught us long ago saying something doesn't make it true. Every expert at our hearings on gas prices, including the Republicans' own witnesses, say that gasoline prices are driven by the world oil prices. World oil prices have spiked with rising global demand, tensions in the Middle East and tight supplies. Nothing in these bills will affect world oil prices.

Republicans have two responses to gasoline prices at nearly \$4 a gallon. First, they proposed drilling for more oil, yet every economist and oil market expert tells us that this will have no meaningful impact on world oil prices. An example of that is just to look north to Canada. Canadians drill plenty of oil, they are energy independent and they export to us, but this doesn't bring their prices lower. In fact, their gasoline prices go up and down in sync with ours

because both are driven by world oil prices.

Republicans also say they can bring down gasoline prices by blocking environmental regulations that protect Americans from dangerous air pollution. No one should be fooled by this argument, under Republican leadership, this body has become the most anti environment Congress in history. Since January 2011, the House Republicans have voted more than 200 times to undermine the Clean Air Act, the Clean Water Act and other environmental laws. The premise of the legislation before us today is that high gas prices are caused by EPA regulations that haven't even been proposed, that is a complete fantasy.

Americans want clean air, they don't want this committee to use high gasoline prices as an excuse for blocking regulations to reduce toxic emissions from oil refineries. Americans want cars that can go further on a gallon of gasoline. This is especially important when fuel prices are high. They don't want us to use high gasoline prices as a pretext for blocking clean fuel regulations that the auto companies need to make cleaner, more efficient vehicles. But that is exactly what this legislation does.

Even worse, one of the bills before us contains the Latta amendment, a proposal that will cut the heart out of the Clean Air Act, it will overturn a unanimous 2001 Supreme Court case, and repeal a 40-year old law that says the goal of the Clean Air Act is to achieve air quality that is safe for Americans to breathe. While we can't control crude oil prices on the world market, we can act to insulate

ourselves from crude oil price fluctuations, and that is exactly what the Obama administration is doing.

The best way to save money at the pump is to drive right by it, so the Obama administration has issued strong new rules to make vehicles more efficient. Next year's vehicles will go even further between fill ups, as will the vehicles every year after that.

The Energy Information Administration explains what this means for consumers. The cost per mile driven in 2012 were over 25 percent lower than the cost per mile in 1980, thanks to efficiency improvements. While producing more oil here won't lower gasoline prices, oil production in the U.S. is the highest it has been in 8 years, and the United States has been the world's largest producer of natural gas since 2009.

This is undisputed fact, and shows that the Obama administration is not shutting down drilling. Instead of supporting the President's responsible initiatives, the Republican-controlled House has done everything possible to frustrate them. And House Republicans have even opposed efforts to end the billions of dollars of subsidies that the oil companies receive every year, which they don't need and the taxpayers cannot afford.

If we really cared about helping the country become more resilient to gasoline price volatility, we would be working with the administration instead of trying to block President Obama's every initiatives. These bills are not really about lowering gasoline prices, they are about using high gasoline prices as yet another

rationale for advancing a profoundly anti-environment agenda. Oil companies will surely benefit if these bills are enacted, and just as surely, American families will suffer. Thank you, Mr. Chairman.

[The prepared statement of Mr. Waxman follows:]

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Mr. Whitfield. Thank you, Mr. Waxman. At this time, I would like to recognize the gentleman from Colorado, Mr. Gardner, who is the author of the Strategic Energy Production Act of 2012 for 3 minutes.

Mr. Gardner. I thank you, Mr. Chairman, and thank you for the opportunity to speak on the Strategic Energy Production Act. Our Nation relies on abundant affordable energy. When gas prices rise to the levels that we are seeing today, people can't afford their electricity, families have to make serious sacrifices to fill up the tank and businesses struggle.

Since being elected in November of 2010, I have held nearly 70 town meetings across the district, and the price the gas is a top concern at each and every meeting. Unfortunately, many in the administration have suggested that tapping the Strategic Petroleum Reserve is the way to bring down prices. While they may be politically expedient during a time when the President is trying to win favor with the American people, no one can argue with the fact that this a 1 time, short-term political fix to an enduring problem. Simply put, this administration has politicized the SPRO to achieve a goal that may temporarily ease prices at the pump but will do nothing for our long-term security.

Mr. Chairman, oil production on Federal land is down, in fact, BLM under this administration, has leased fewer onshore acres than any administration going back to 1984. With only 3 percent of Federal land leased for oil and gas production to date, we certainly have resources at our disposal. What perplexes me is that the Federal Government refuses to use these resources. The vast amounts of oil that we are

unable to access will lie fallow unless we are allowed to explore them.

If the administration is going to pursue short-term policies such as using the reserve for market manipulation, then shouldn't we, at a minimum, couple that with a long-term supply solution, like increased domestic energy production. What is more, we have to think seriously about the threats that we have from abroad, the threats that could cripple our economy if our oil supply cut off or significantly reduced.

I am for an all-of-the-above energy approach, I have said it before, I truly believe that wind, solar, hydro and other alternative energies will play a very large role in creating stronger, more robust domestic energy supplies. But reality forces the recognition that energy from these sources simply cannot, at this point, replace oil and natural gas. If we have a severe supply disruption we should not be forced to rely on our reserves only, but rather, be able to rely on accessing domestic land for production.

Mr. Chairman, the bill is simple, it does one thing, it says that if there is a problem large enough to warrant tapping into our oil reserves, reserves that are only to be used when there is severe supply disruption, we should acknowledge that problem and put in place a long-term solution.

Witness after witness has testified before this committee that increasing our domestic energy supply will have an impact, a negative impact on the price of gasoline. I certainly am not offering my bill today in order to place any restrictions on whether the President can draw down from the SPRO. In fact, nothing in this bill prevents the

President there deciding to release oil should he believe there is an emergency that warrants it. What it does say, though, is that if he is going to release oil, he should then implement a plan to increase Federal land for leasing so more oil can be produced in the future. We need real solutions to the gas price problem, not quick fix politics with no long-term impact.

Thank you, Mr. Chairman, and I yield back the balance of my time.

Mr. Whitfield. Thank you, Mr. Gardner.

[The prepared statement of Mr. Gardner follows:]

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Mr. Whitfield. At this time, I recognize the gentleman from Maryland, Mr. Sarbanes, for 3 minutes.

Mr. Sarbanes. Thank you very much, Mr. Chairman, I appreciate it. We are going to be marking up two bills tomorrow. I think both of them are ill-advised, but I would like to address the Gasoline Regulations Act of 2012. Nobody is more acutely aware of gas prices than I am, I drive back and forth to my district every single day. I probably fill my car up every 2 days. So I see the prices wherever they may be.

This bill, the Gasoline Regulations Act of 2012, seems to be premised on the notion that if we can delay these tier 3 regulations that EPA is looking at and stop them from moving ahead, that that will somehow have a consequence with respect to gas prices, but the evidence does not support this. So what you have here is you have on one side the issues of smog and air pollution, and on the other side, this issue of gas prices, so let me speak to that quickly.

A 2011 study revealed that the Baltimore-Washington corridor which encompasses much of my district has the worst air quality on the east coast. And moreover, the Maryland Department of Environment estimates 70 percent of smog-forming emissions affecting Maryland comes from out of State. You also have deposition of nitrogen that comes from cars, trucks and power plants which is estimated to contribute approximately 20 percent of the nitrogen that is polluting the Chesapeake Bay.

The legislation that is being proposed that we are supposed to

mark up tomorrow would prevent the EPA from issuing these new tier 3 standards which could reduce the sulfur, if we put these in place, it could reduce the sulfur and gasoline, and thereby reduce the nitrogen oxide that is impacting air quality in my district. And it is because of that positive impact that I would like to see those things move forward and that there be no delay.

The Baltimore Sun indicated a recent report by the State air quality regulators, showed that the cost of the new tier 3 standards would be about a penny per gallon at the pump versus 234 million to upwards of \$1.2 billion that it could save in fewer hospitalizations, fewer sick days and fewer premature deaths. And that didn't even account for the economic benefits from the Chesapeake Bay in terms of cleaner water quality.

So my concern here, as I think the majority is attempting really to dismantle the Clean Air Act protections with negative consequences for people in my district and across the country. And to do so in the name of reducing gasoline prices, when in fact, that is not what would happen. All this legislation would do is create dirtier air from my constituents and others, and for that reason, I oppose it, and yield back my time. Thank you.

Mr. Whitfield. Thank you very much.

[The prepared statement of Mr. Sarbanes follows:]

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Mr. Whitfield. At this time, I recognize the full committee chairman, Mr. Upton of Michigan, for 5 minutes.

The Chairman. Well, thank you, Mr. Chairman. Many factors impact the price of gas, including the global events that are not easily controlled by Congress for sure. But some factors are squarely within our control, and we owe it to the American people to do something about them. This includes increasing domestic oil production in cutting red tape. And that is precisely what the Strategic Energy Production Act and the Gasoline Regulations Act will help accomplish.

The President as we know is considering another drawdown of the Strategic Petroleum Reserve in an attempt to bring down prices. As a long-time proponent of the SPR as an insurance policy against major disruptions in oil supplies, I am very leery of drawing down the reserve in a non emergency situation. The reserves are currently at 696 million barrels which gives us roughly 80 days of protection from a major disruption of imports. It is already 30 million barrels lower than last year when the President tapped it in a failed attempt to reduce prices.

Now the President may draw it down again. Fortunately, there is a supply of domestic oil that could prove to be orders of magnitude -- fortunately, there is a supply of domestic oil that could prove to be orders of magnitude greater than the entire SPR, and that is the oil beneath Federal lands in offshore areas that are currently off limits. Despite administration assertions to the contrary, the President continues to keep nearly all of this oil out of reach and

slow the pace of new energy leasing on the Federal estate. The Strategic Energy Production Act requires that any future drawdown of the SPR must be accompanied by new Federal oil leases. I would like to thank my friend and colleague, Cory Gardner of Colorado, for his sponsorship of this commonsense measure, energy-rich States like Colorado want to be a bigger contributor to the Nation's affordable energy needs in creating thousands of high-paying, energy industrial jobs in the process. Not a bad thing.

But Federal reluctance to issue energy leases often stands in the way. The Strategic Energy Production Act helps eliminate that road block for Colorado as well as other inland and costal States that want to be a part of the solution by producing more domestic oil.

The price at the pump is also affected by the cost of refining oil into gas and diesel fuel. EPA's regs are a part of those costs. I would note that the President's January 2011 executive order improving regulation and regulatory review said all the right things about the need for agencies to reign in the cost of red tape, including the cost of cumulative regulations. Gasoline regs would be a great starting point for implementing this very executive order, but the Obama EPA has yet to turn its words into action. Indeed, rather than consider streamlining existing gas regs, the Agency is about to embark on a potentially costly wave of new ones.

The Gasoline Regulations Act requires that the cumulative impact of these upcoming rules have to be analyzed before they go into effect. This includes EPA's costly global warming agenda as well as the tier

3 gasoline regs that may impact future prices at the pump. Given the recent announcements of several refinery closures, 2011 DOE finding that regulations played a role in 66 refinery closures since 1990, the study would also look at the impact of new regs on jobs in domestic refining capacity.

I would like to thank my friend and colleague, our subcommittee chair, Mr. Whitfield, for still taking time off from celebrating the Wild Cats national championship and sponsoring this very sensible bill. You have done your homework and we appreciate that. I yield back the balance of my time.

[The prepared statement of Mr. Upton follows:]

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Mr. Whitfield. Well, thank you, Mr. Upton, that means a lot to me. This time I would like to recognize the gentleman from Texas, Mr. Olson, for 3 minutes for his opening statement.

Mr. Olson. Thank you, Mr. Chairman for bringing these important pieces of legislation before this subcommittee. The Gasoline Regulations Act of 2012, and the Strategic Energy Production Act of 2012, represent our commitment to reduce the price of energy, create jobs, grow our economy and protect our national security. We must continue to necessary steps to reel in the President's anti American energy agenda. Most Americans agree that the President's approach will not strengthen our economy and lift us out of this recession. The Obama White House is delaying the Keystone XL pipeline, wasting billions on loan guarantees for political gains, slow walking permits for drilling on Federal lands, picking winners and losers by proposing subsidies for green energy and higher taxes for small businesses, and toying with the idea of tapping our Strategic Petroleum Reserve.

These two bills before us today are truly commonsense measures that can get us back on track. Chairman Whitfield's bill would simply require EPA to estimate the cumulative impact of rulemaking on fuel prices, jobs and the environment. And Mr. Gardner's bill would simply require the Secretary of Energy to develop a plan to replace fuel depleted by a drawdown of the strategic petroleum reserve. How can you argue with that?

In my opinion, the Federal Government should have been doing this all along. This committee has passed bill after bill to stabilize

energy prices, create thousands of good jobs, and enhance our national security through energy independence for America. It is time to send a vote to them and send them to the President to be signed. I yield back the balance of my time.

[The prepared statement of Mr. Olson follows:]

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Mr. Whitfield. Thank you, Mr. Olson. At this time I recognize the gentleman from Louisiana, Mr. Scalise, for 3 minutes opening statement.

Mr. Scalise. Thank you, Mr. Chairman. And our friends in the City of New Orleans, we are happy to welcome all the Kentucky fans down to New Orleans for the Final Four. Congratulate you on the victory you went home with.

I want to commend you as well, Mr. Chairman, for bringing these two bills to the committee and to ultimately hopefully bring these to the House floor and continue this debate on energy. And those of us who support an all-of-the-above energy strategy know that the Gasoline Regulations Act that Chairman Whitfield brought forward would start to at least put some sunshine and hopefully reign in some of the radical regulations that are coming out of the EPA. It seems too often now, in the last 2 weeks, we were back home in our districts. I was talking to small businesses all throughout my district, and every time you talk to small business owners and our job creators across this country, I ask what are the things that are holding you back from creating more jobs? What kinds of things can you see that would allow to you create more jobs, and time and time again they say the regulations coming out of Washington, D.C. are the things that are holding them back the most. And unfortunately the EPA is the biggest offender that they cite.

And so I applaud the chairman for bringing this bill that will shed light on the costs associated with all of these radical regulations that have nothing do with clean water and clean air that have to do

with pursuing an agenda that wants to shut down fossil fuels and shut down the ability of our country to manufacture goods. And it has already lead to millions of jobs leaving our country and that is one of the reasons so many people unemployed today that are trying to find work.

My colleague, Mr. Gardner, I want to commend him as well for bringing this Strategic Energy Production Act, to finally put some checks and balances on the Strategic Petroleum Reserve. We have seen all to often that President Obama used the Strategic Petroleum Reserve as a bailout funding for his failed policies. That is not why it is there. In fact, just last year, when the President raided the fund to the total of 30 million barrels of oil that still he has not replaced. He said it would slow down the increase in price of gasoline. It didn't do anything to slow down the increase in price in gasoline, prices were back up above where they were just a week before he did that.

And so for the President to go and raid this fund of every time he has failed policies and the public gets irate about the price they are paying, just go take look at the price at the pump where it was when the President took office, \$1.83 and where it is today, about now \$3.90 and rising. And it is because of his failed policies. And when he says he is for all of the above, unfortunately, his policies contradict those very statements. If you look at President Obama's own U.S. energy information administration, the Obama administration estimates that oil production in the Gulf of Mexico alone was down 22 percent last year and it is projected to be down 30 percent in 2012

with respect to production forecasts, it is because of the President's own policies. And so he goes running around saying production has never been higher because on private lands where he is trying to shut down through the EPA hydraulic fracturing that has been up. But where he has control on Federal lands, it actually down and according to his own administration by more than 30 percent this year in the Gulf of Mexico alone. It is killing jobs and it is raising the cost of gasoline and it is time we reign that in, and I applaud you for bringing these bills and I yield back the balance of my time.

Mr. Whitfield. Thank you, Mr. Scalise. And I want to thank all of you members who came back in time to give your opening statements. And of course, all members' opening statements will be made a part of the record pursuant to committee rules. And if there are no further opening statements, the chair would now call up the Gasoline Regulations Act of 2012 and ask the clerk to report.

The Clerk. A discussion draft require analysis of cumulative impacts of certain rules and actions of the Environmental Protection Agency that impact gasoline and diesel fuel prices, jobs and the economy and for other purposes.

[The information follows:]

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Mr. Whitfield. Without objection the first reading of the bill is dispensed with. And the bill will be open for amendment at any point, so ordered. For the information of members, we are now on the Gasoline Regulations Act of 2012. The subcommittee will reconvene at 10:00 a.m. tomorrow, and I would remind members that the chair will give priority recognition to amendments offered on a bipartisan basis. So I look forward to seeing all of you tomorrow, and this subcommittee stands in recess.

[Whereupon, at 4:30 p.m., the subcommittee was recessed until 10:00 a.m. the next day, on Tuesday, April 17, 2012.]