



The Daily Whip

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FRIDAY, OCTOBER 7, 2005

House Meets At...	Last Vote Predicted At...
9:00 a.m.: Legislative Business Five "One Minutes" Per Side	1:00 – 2:00 p.m.

FLOOR SCHEDULE AND BILL SUMMARY

H.Res. 481 – Rule Providing for consideration of H.R. 3893 – Gasoline for America's Security Act of 2005. The Rules Committee has recommended a restrictive rule that self-executes a manager's amendment, makes in order one Democratic amendment in the nature of a substitute debatable for 40 minutes, and provides one motion to recommit with or without instructions.

- **Self-Executing Barton Manager's Amendment.** Barton Manager's Amendment includes 29 changes to the underlying bill, many technical in nature, but others that reveal again the flawed process under which the underlying bill was constructed. The Manager's amendment drops the section which called for codification of controversial New Source Review clean air regulations, but retains other provisions that weaken several other clean air and permitting regulations, including the preemption and state and local government siting and zoning rules. Under the Manager's amendment, the bill would still retain a weak federal response to price-gouging and potential market manipulation in the oil and gas industry, limiting fines to \$11,000 in certain geographic areas designated by the President as major disasters, and does not include natural gas, for which prices are already anticipated to increase 75%. The bill also still arbitrarily limits the number of gasoline and diesel fuel blends to six nationally from the current 19 without any justification or analysis as to how that change may lower prices or effect air emissions in the areas forced to use a different fuel.

H.R. 3893 – Gasoline for America's Security Act of 2005 (Rep. Barton – Energy and Commerce) (Subject to a Rule). This bill is the Republican response to current skyrocketing fuel/gasoline prices that are squeezing American families and to diminished refinery capacity in the aftermath of hurricanes Katrina and Rita. Major components of the Republican bill as reported by the Energy and Commerce Committee:

- **Republicans do nothing to lower gasoline and other fuel prices or to increase refining capacity.** During a time of record oil and refinery company profits, the Republican solution is to offer subsidies to a profitable industry and to rollback environmental regulations. The Energy and Commerce Committee-adopted bill does nothing to deal with the problems found in the aftermath of hurricanes Katrina and Rita, is unlikely to increase refinery capacity, and could even lead to greater gas price increases and refining industry profits. The bill repeals provisions enacted in August, 2005 to allow the Federal Government to coordinate refinery permitting. Republicans simply use the disaster to slip through a collection of unrelated provisions that the majority could not pass during the consideration of the energy bill earlier this year.
- **Republicans Weaken Gasoline Price-Gouging Enforcement and Ignore Natural Gas, Home Heating Oil and Propane Prices.** The only provision in the bill regarding high gasoline prices would rollback existing authorities of the Federal Trade Commission (FTC). With the industry profiting hundreds of millions of dollars per day, this bill would limit to \$11,000 per day the penalty to any person for price gouging. The so-called price-gouging provision appears directed towards small gas station owners rather than refiners. Recent analysis of price increases at the pump found that retailers' margins increased less than 1 cent per gallon (about 5%) while



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the refineries' prices have increased by 71 cents (or 255%). The bill lacks real enforcement authority since it does not allow for State Attorneys General to enforce the Federal law, nor does it make market manipulation a cause of action. Finally, the bill fails to cover natural gas, home heating oil, and propane even though those prices are forecast to increase nearly 75% this winter.

- **Republicans Weaken Public Health Protections.** The bill includes several provisions that are aimed at reducing public health and environmental protections, even for industries that have nothing to do with the production of gasoline. Without any legislative hearings, the bill codifies the Administration's controversial New Source Review regulations that are currently being litigated, which would allow increased air emissions in all industries, not just oil and gas, and another provision known as "bump up" which allows delays in meeting current deadlines under the Clean Air Act. Furthermore, the bill rewards an industry that has limited investment in refining capacity and closed over 30 refineries for economic reasons, and arbitrarily establishes a national limit of six blends of gasoline and diesel fuel which could increase air pollution and prices in certain regions even more.

Stupak/Boucher/Bishop (NY)/Schwartz/Barrow Democratic Substitute (40 minutes). The Democratic substitute gives explicit authority to the FTC to stop price gouging, not just for gasoline and diesel, but for natural gas, home heating oil, and propane; provides for enhanced civil penalties equal to three times the amount of unjust profits gained or up to \$3 million per day; explicitly outlaws market manipulation; and empowers State Attorneys Generals to enforce the Federal law on top of their state laws (On September 28th, the House voted on the Stupak motion to recommit on price gouging with unanimous Democratic support). The Democratic substitute also responds to a real homeland defense problem revealed by the hurricanes. The substitute would establish a Strategic Refinery Reserve (SRR) patterned after the Strategic Petroleum Reserve (SPR), to ensure new refining capacity that operates at all times and can be increased during supply disruptions. The SRR would ensure that Federal fleet and military needs would be met at all times, and ramp up to full production when needed to provide additional supply during national energy shortages, decreasing price pressures at the pump. Despite unanimous Democratic support, the Substitute was defeated in the Energy and Commerce Committee on a straight party line vote of 23 to 27.

Democrats are urged to VOTE YES on the Democratic Substitute. If the Democratic Substitute is not adopted, **Democrats are urged to VOTE NO on Final Passage of the Republican Gasoline Bill.**

Postponed Suspension Votes (1 bill):

- 1) **H.Con.Res. 248** - Honoring the life and work of Simon Wiesenthal and reaffirming the commitment of Congress to the fight against anti-Semitism and intolerance in all forms, in all forums, and in all nations (*Rep. Waxman - International Relations*)

Daily Quote...

"The Republicans' energy bill 'gives a break to wealthy oil companies while doing little or nothing to affect oil prices. [O]il companies now have all the profits and incentives they need to build new refineries.'"

- Republican Rep. Sherwood Boehlert, R-N.Y., said in a letter Thursday to colleagues, as reported by the *Associated Press*