### 1NC

#### They don’t specific their agent- that’s a voter

#### It creates a bad model of decision making- we don’t learn how the government actually work- especially in the context of a energy

#### This is the biggest impact- decision making knowledge transfers outside debate

#### 90% of the plan is the procedure of implementation. We can’t learn about most of the Affirmative

Elmore ‘80, Professor of Public Affairs at University of Michigan, Polysci Quarterly Pages 79-80

Analysis of Policy choices matters very little if the mechanism for implementing those choices is poorly understood. In the Normal Case, it was about 10%, leaving 90% in the realm of Implementation.

### 1NC

#### Expanded offshore gas production collapse critical ocean resources

SELC, 12

[Southern Environmental Law Center, "Offshore Drilling: Defending the Atlantic and Eastern Gulf," 6-20-12, www.southernenvironment.org/cases/drilling\_in\_the\_atlantic\_huge\_risk\_little\_reward, accessed 1-31-13, mss]

For more than 25 years, the Atlantic coast has been off-limits to offshore oil and gas drilling. During that time, SELC has protected our coastal resources from a variety of harms. Today, our beaches and marshlands remain largely **unspoiled**, and our fisheries are among the most productive in the world. The Push to Drill In 2008, the freeze on offshore drilling in new areas of the U.S. was lifted, and two years later, President Obama announced plans to allow drilling in the Atlantic, from Maryland to northern Florida, and in the eastern Gulf, near Alabama. Virginia, which had a potential lease sale in the works, was suddenly in the crosshairs. Shortly after, the blowout of BP’s deepwater well in the Gulf of Mexico and the oil spill that lasted several months brought into stark focus the threats posed by offshore drilling to coastal communities and ecosystems. SELC and our partners, including Defenders of Wildlife, are taking legal action to stop the lax federal oversight that led to the Gulf disaster, and we continue leading the opposition to plans to open more of the Southeast’s coast to oil and gas development. Coastal Riches for Wildlife and People The beautiful and **biologically rich** coastal areas off Virginia, North Carolina, South Carolina, Georgia, and Alabama feature some of the **most productive estuaries** in the country, including the Chesapeake Bay, the Pamlico Sound, the ACE Basin, and Mobile Bay. Our shores attract millions of tourists, anglers, and other visitors each year and provide **important** breeding and feeding **habitat** for migratory birds, turtles, and whales, many of which are globally rare. Tourism and fishing—both commercial and recreational—are the economic backbone of hundreds of towns and cities along our coasts. In 2008 alone, our four Atlantic states yielded $262.8 million in commercial fish landings. Potential for Disaster The environmental impacts of offshore drilling were well known even before Gulf disaster. Ocean rigs routinely spill and leak oil—and sometimes blow out. Chemicals used to operate oil and gas wells also pollute the marine environment. Moreover, oil spills and other contamination from onshore refineries, pipelines, and associated infrastructure would spoil wetland and marsh ecosystems that provide untold benefits for Southern communities, including flood control, clean drinking water, and **essential habitat** for fisheries that sustain their economies. Hurricanes occur frequently in the Atlantic and add to the risk. In the Gulf, the devastation and loss of life caused by hurricanes Katrina and Rita overshadowed the fact that roughly 8 million gallons of petroleum products spilled from various sources. Too Little, Too Late The relatively low amounts of oil and gas in the Atlantic are not worth the tremendous risk to the South’s exceptional coastal resources. According to only available government estimates, the Mid- and South Atlantic hold less than a two-month supply of oil (at current rates of national consumption) and just a six-month supply of natural gas. The Virginia lease area holds just six days of oil and 18 days of natural gas. . (Read more about the Virginia lease sale.) The South has too much to lose and too little to gain by opening up the Mid- and South Atlantic coast and eastern Gulf to offshore drilling. SELC strongly opposes any moves to do so.

#### Extinction

Craig, 3 -- Indiana University School of Law professor

[Robin, "Taking Steps Toward Marine Wilderness Protection?" McGeorge Law Review, 34 McGeorge L. Rev. 155, Winter 2003, l/n, accessed 2-2-13, mss]

The world's oceans contain many resources and provide many services that humans consider valuable. "Occupy[ing] more than [seventy percent] of the earth's surface and [ninety-five percent] of the biosphere," n17 oceans provide food; marketable goods such as shells, aquarium fish, and pharmaceuticals; life support processes, including carbon sequestration, nutrient cycling, and weather mechanics; and quality of life, both aesthetic and economic, for millions of people worldwide. n18 Indeed, it is difficult to overstate the importance of the ocean to humanity's well-being: "The ocean is the cradle of life on our planet, and it remains the axis of existence, the locus of planetary biodiversity, and the engine of the chemical and hydrological cycles that create and maintain our atmosphere and climate." n19 Ocean and coastal ecosystem services have been calculated to be worth over twenty billion dollars per year, worldwide. n20 In addition, many people assign heritage and existence value to the ocean and its creatures, viewing the world's seas as a common legacy to be passed on relatively intact to future generations. n21

### 1NC

#### Text: the United States federal government should implement the Reasonable Defense plan.

#### The United States Federal Government should establish an Arctic Forum for Arctic-oriented security dialogue.

#### The United States federal government should pass the Saving Essential American Sailors Act.

#### The United States federal government should pass the Responsible Helium Administration and Stewardship Act.

#### Reasonable Defense prevents sequestration –avoids politics

Nash-Hoff 11/6 (Michele Nash-Hoff, Author of 'Can American Manufacturing be Saved? Why We Should and How We Can', <http://www.huffingtonpost.com/michele-nashhoff/lame-duck-congress_b_2084076.html>, November 6, 2012)

The clock is ticking -- only 55 more days until sequestration takes effect on Jan. 2, 2013. For the uninformed, sequestration is the across-the-board 10 percent cut in discretionary spending in the budget, including the Department of Defense budget, that is mandated by the Budget Control Act of 2011. The mandatory entitlement spending of the federal budget, Social Security, Medicare, Medicaid, will continue to grow, along with the interest on the national debt. If Congress is unable to reach a compromise on how to reduce our $16 trillion national debt, over $500 billion dollars in cuts to the defense budget over the next decade would be mandated to start Jan. 3, translating into a cut of about $55-60 billion for 2013. Our government took drastic action to prevent the bankruptcy of General Motors, but the effect of sequestration would be like both General Motors and Ford going bankrupt. It would not only affect all of the major defense prime contractors, but would affect their subcontractors, and in turn, their vendors, all the way down to the bottom of the defense and military supply chain. The lower tiers of the supply chain are nearly all small businesses, many of them disadvantaged businesses in the minority, veteran, or women-owned categories. After three and a half years of a weak recovery, the last thing we need is a drastic cut in defense and military spending. In many regions of the country, defense and military spending has been the major factor in helping a region to recover. My hometown of San Diego is one of these regions that would be impacted severely. According to the San Diego Military Advisory Council (SDMAC) 2012 Economic Impact Study, "a total of $20.6 billion of direct spending related to defense was estimated to flow into San Diego County during fiscal year 2012," and "the military sector is responsible for 311,000 of the region's total jobs in 2012 after accounting for all of the ripple effects of defense spending. This represents one out of every four jobs in San Diego." "Defense‐related activities and spending were predicted to generate $32 billion of gross regional product (GRP) for San Diego County in fiscal year 2012," more than the total economic output estimated for Colorado Springs, Colo., or El Paso, Texas. The report states that "dollars linked to national security enter San Diego through three primary channels: wages and benefits for active duty and civilian workers; benefits for retirees and veterans; and direct spending on contracts, grants, and small purchases" by the military and other Department of Defense (DoD) agencies. According to the report: "San Diego will not be immune to the planned cutbacks in troop levels and spending by the Department of Defense. The Marine Corps is expected to see its size gradually reduced over the next five years primarily through attrition and a reduction in recruiting. The number of Navy personnel based in San Diego is projected to increase in fiscal year 2013 with the return of a second aircraft carrier, the USS Ronald Reagan. The shift in strategic focus to the Asia Pacific region will continue to support the Navy's presence in San Diego as with the potential addition of a third aircraft carrier." In the San Diego region, the manufacturing industry is the largest business sector that provides goods and services to the military. One-third of all companies reported some dependency on the defense industry. Over 1,700 companies of the San Diego companies profiled on the Connectory.com database of primary industries reported that military and government contracts make up a portion of their market share, so "an orchestrated approach to future defense downsizing and its impact on the manufacturing sector is needed." Nearly all of the major defense prime contractors -- BAE Systems, Boeing, General Dynamics, General Atomics, Lockheed-Martin, Northrop Grumman, and United Technologies -- have a presence in the San Diego region. According to an editorial by the president of the National Defense Industry Association, Lawrence Farrell Jr., about "$22 billion of the sequester cut of $54 billion for fiscal year 2013 will come from operations and maintenance accounts. About $21 billion of the reductions will be from investments in new weapons systems and technology." He also wrote, "With or without sequester, the near term reality for defense is military forces will be smaller, and weapons a bit older unless planned acquisition catches up with aging systems. Every branch of the military needs to modernize their aging fleets." On Aug. 6, 2012, Defense Secretary Leon E. Panetta said, "I've made clear, and I'll continue to do so, that if sequestration is allowed to go into effect, it'll be a disaster for national defense and it would be a disaster, frankly, for defense communities as well." Panetta called sequestration "an indiscriminate formula" that was never meant to take effect. "It was never designed to be implemented," he said. "It was designed to trigger such untold damage that it would force people to do the right thing. He urged the defense community leaders to do what they can to ensure Congress reaches a solution that avoids sequestration." On Sept. 21, 2012, Sen. John McCain, ranking Republican on the Armed Services Committee and committee Chairman Carl Levin and four other Republican and Democratic senators sent a letter to Senate Majority Leader Harry Reid (D-NV) and Senate Republican Leader Mitch McConnell (R-KY) urging their party leaders to find a way to avert the spending cuts slated to begin Jan. 2, 2013 to "send a strong signal of our bipartisan determination to avoid or delay sequestration and the resulting major damage to our national security, vital domestic priorities and our economy.'' In an August 2012 article titled "A Smarter Way to Trim the Pentagon Budget," Charles Knight, co-director of the Project on Defense Alternatives, stated: "There are numerous ways to save defense dollars that avoid both institutional disruption and most of the economic pain associated with deep cuts to government spending. An illustrative option is the Reasonable Defense plan, which will soon be released in its entirety by the Project on Defense Alternatives." The Project on Defense Alternatives is a think tank which promotes consideration of a broad range of defense options and advocates resetting America's defense posture along more sustainable, cost-effective lines. The plan would decrease the 2013 defense budget by only $30 billion vs. $55 billion, comparable to the 2006 defense budget adjusted for inflation, and the reduction over a 10 year period would be more gradual than the Budget Control Act cap on defense spending. Key points of the plan are: The Reasonable Defense budget for ten years would cost $560 billion less than the 2013 plan submitted by the White House. Over the course of ten years the White House plan is to provide the Pentagon with $5.76 trillion. The Reasonable Defense budget would provide the Pentagon with $5.2 trillion over ten years. The Budget Control Act would cap defense at about $5.18 trillion.

#### Arctic Forum for Arctic-oriented security dialogue solves Arctic war

**Perry and Andersen 12** (<http://www.ifpa.org/pdf/StrategicDynamicsArcticRegion.pdf>, New Strategic Dynamics in the Arctic Region: Implications for National Security and International Collaboration, February 2012, Charles M. Perry and Bobby Andersen. Dr. Perry is vice president and director of studies at the Institute for Foreign Policy Analysis, Inc., and vice president of National Security Planning Associates, Inc. Dr. Perry also directs and/or contributes to a number of Institute studies that focus on specific aspects of U.S. defense reform and military transformation to meet post-9/11 security challenges. Dr. Perry holds an M.A. in international affairs, an M.A. in law and diplomacy, and a Ph.D. in international politics from the Fletcher School of Law and Diplomacy, Tufts University. He has served as an officer in the United States Army Reserve, and is a member of the International Institute of Strategic Studies (IISS). Bobby Anderson is a research associate at the Institute for Foreign Policy Analysis. She focuses on Nordic affairs, NATO and European security issues, U.S. defense strategy, regional security developments in the Asia-Pacific, changing security dynamics in the Arctic region.)

One idea for strengthening the security policy component of the Arctic Council would be for NATO to follow the EU’s lead in seeking permanent observer status on the council. That way NATO, in accordance with the 127 Ibid. 128 Bailes, “Options for Closer Cooperation in the High North.” Arctic Council Plus formula, could participate more directly in council discussions that could benefit from a broader regional security perspective. It is also possible that a new multilateral mechanism could be established to facilitate Arctic-wide discussions of emerging security concerns and military challenges. In that regard, promoting and developing an informal, unofficial forum for an Arctic-oriented security dialogue – similar perhaps to the annual Munich Security Conference in Germany and the Shangri-La Dialogue in Singapore – might be an ideal way forward. Just as the Munich session does for European security and the Singapore session for Asia-Pacific security, an Arctic forum along similar lines, hosted perhaps by one of the Arctic Five (or rotated among them), could provide an authoritative venue where recognized experts and senior officials dealing with Arctic security matters could come together on a regular basis to discuss security challenges in the Arctic region, but do so in an unofficial setting free from the constraints and sensitivities often associated with more formal and official diplomatic exchanges. Indeed, given the traditional reluctance of the Arctic Five to address security policy issues at the Arctic Council, such a forum, which could be open to all parties interested in contributing to a stable and secure Arctic region, is long overdue.

#### Saving Essential American Sailors Act solves sealift

Schubert ’12 (Capt. William Schubert, Retired Capt. William Schubert, left, administrator of the U.S. Maritime Administration from 2001 to 2005, and retired Vice Adm. Albert Herberger, administrator of the Maritime Administration from 1993 to 1997. Both serve as maritime consultants, “Downsizing U.S. Merchant Marine Undermines Security”, <http://www.defensenews.com/article/20121106/DEFFEAT05/311060014/Downsizing-U-S-Merchant-Marine-Undermines-Security>, November 6, 2012)

During times of war or national emergency, the U.S. government relies on the U.S. Merchant Marine and its public-private partnership with the Department of Defense to ensure there is adequate U.S.-controlled capacity to transport critical cargo anywhere in the world at any time. Thanks to this partnership, the U.S. Merchant Marine’s vessels, infrastructure and manpower are at the nation’s disposal whenever necessary. Without this, our assured ability to deliver military equipment and supplies quickly and efficiently to our soldiers would be severely diminished. As former administrators of the U.S. Maritime Administration (MARAD), we have experienced firsthand how vital the U.S. Merchant Marine is to national defense. We were therefore very disappointed to see that the final version of the 2012 Surface Transportation Act — without open discussion or debate — contained a provision that undermines the U.S. Merchant Marine, jeopardizing national security and eliminating thousands of American jobs in the process. Repeals U.S. Cargo Preferences The provision in question, which repealed one-third of long-standing U.S. cargo preference requirements stipulating that U.S. international food aid must be carried by American-owned and-crewed ships, harms our nation’s commercial sealift capability and causes an immediate, detrimental impact on the Pentagon’s ability to move equipment and supplies by sea. The U.S. will lose the use of an estimated 16 U.S. flag vessels once this provision goes into effect, as well as a highly trained workforce and important intermodal capabilities. MARAD estimates that this change in cargo preference law will lead to a loss of $90 million per year in revenue and 2,000 direct and indirect jobs, including 640 seagoing mariner jobs. Since its founding in 1776, our nation has depended on the U.S. Merchant Marine to ensure that we have a trustworthy, reliable sealift capability so no country can have a veto over U.S. foreign policy. Most recently, U.S. flag vessels safely and effectively carried more than 90 percent of military supplies for the conflicts in Iraq and Afghanistan. Without the citizen merchant mariners manning these ships, the U.S. would be forced to depend on politically unreliable foreign ships and foreign crews to carry some of its most important cargoes. The U.S. Merchant Marine is critical not only because it is a trustworthy extension of U.S. military capabilities, but also because it is cost-effective. In fact, MARAD has indicated that the Defense Department would need $13 billion in capital costs plus $1 billion in annual operating costs to replicate the sealift capacity that it obtains at a fraction of that price through the U.S. Merchant Marine. Given the looming sequestration deadline and its huge potential impact on the Pentagon, it simply does not make sense for the Defense Department to shoulder these costs. To reverse this unfortunate situation, Democratic Rep. Elijah Cummings of Maryland and Republican Rep. Jeff Landry of Louisiana, as well as 40 other co-sponsors from both sides of the aisle, proposed the Saving Essential American Sailors (SEAS) Act, H.R. 6170. We salute them for recognizing the national security imperative of ensuring the readiness of the U.S. Merchant Marine, and we urge other members to join the movement to enact this bill and reverse the unwarranted and dangerous cut in U.S. flag shipping requirements. We understand that congressional leaders must often make tough decisions. Reversing the cut to cargo preference and preserving the U.S. Merchant Marine is not one of them. The United States loses far more than it gains from the loss of sealift capability caused by the 2012 Surface Transportation Act. The United States needs a vibrant U.S. Merchant Marine and cannot afford to lose the sealift capability upon which so much depends. The cut to cargo preference should be reversed.

#### Responsible Helium Administration and Stewardship Act solves helium

Bonner 2/8/13 (Loren, “Bipartisan Bill Introduced to Save U.S. Helium Supply”)

Members of the House Committee on Natural Resources have introduced a bipartisan bill into Congress that would keep the Federal Helium Reserve open, a global supply of helium that's critical to manufacturing and running MRI scanners. By law, the reserve is supposed to close later this year when the government is required to sell it off by 2015 in an effort to pay down the system's debts. But it should be able to pay off the debt by October 2013 instead — earlier than expected — without having sold off all the helium. The Responsible Helium Administration and Stewardship Act (H.R. 527), introduced on Wednesday, prevents a premature closure of the reserve, which supplies 30 percent of the world's helium supply. The bill is also intended to ensure taxpayers get a fair price for helium sold by the Bureau of Land Management since the market price of helium has risen higher than the federal government pricing formula in recent years. Without immediate reforms the world will soon face a global helium shortage, which will threaten tens of thousands of American jobs, make life-saving medical devices unreliable and disrupt national defense efforts," said Rep. Doc Hastings (R-Wash.), chairman of the committee, in a prepared statement. The bipartisan bill spells out a three-part approach for operating the reserve over the next decade — the estimated time it will take for the helium to be emptied out. The first phase is to let the Federal Helium Reserve continue operating under current law until one year after the date of enactment of the new law; phase two sets up a quarterly helium auction to promote competition and ensure a better return for taxpayers; and the final phase leaves the remaining helium — starting when there is 3 billion cubic feet of it left — available only for national security and scientific needs. The Medical Imaging & Technology Alliance (MITA), an OEM lobby, applauded the bill for presenting a solution to the problem. Gail Rodriguez, executive director of MITA said: "Failure to preserve our domestic helium supply will have reverberating effects on medical imaging manufacturers as well as the entire health care industry, as manufacturing facilities will have no choice but to slow or shut down production and physicians will be forced to turn away patients due to the shortage." The last bill aimed at extending the life of the reserve slipped through the cracks during a congressional "lame duck" session last year and expired when the 113th Congress began on Jan. 1, 2013.

### 1NC

#### Text: The United States Department of Energy (or Appropriate Agency) should issue a guidance document substantially lowering penalties for violating and de-prioritize enforcement of the [restriction of aff plan]. The Agency shall issue public statements making the (aff industry area) aware of this change.

#### Guidance documents have the power of law but are not binding – agencies voluntarily comply with rules

Hunnicutt 1999 [James JD – Boston College Law School “NOTE: Another Reason to Reform the Federal Regulatory System: Agencies' Treating Nonlegislative Rules as Binding Law” Boston College Law Review December, 41 B.C. L. Rev 153]

Rules created without process--interpretative rules, general statements of policy, rules of agency organization and other **nonlegislative rules**--generally **cannot have legally binding effects.** 117 In administrative and judicial proceedings, nonlegislative rules are not treated as law, but as influential agency thought that may factor into a proceeding's outcome. 118 According to the courts, nonlegislative rules cannot be the decisive factor in a court proceeding or enforcement action. 119 For example, in 1986, in Thomas v. New York, the Court of Appeals for the District of Columbia Circuit held that a letter written by the Administrator of the Environmental Protection Agency could not have binding legal effects because it had not been subjected to notice-and-comment process. 120 Several eastern states--including New York, national environmental groups, American citizens owning property in Canada and a Congressman brought suit against Lee Thomas, Administrator of the EPA under President Reagan in the early 1980s, for not revising certain air pollution standards. 121 Prior to Thomas taking the helm of the EPA, Douglas Costle had been the EPA's Administrator under President Carter. 122 Days before Reagan took office, Costle wrote a letter to then Secretary of State Edmund Muskie indicating that based on the findings of an official joint American-Canadian commission, he believed pollution emitted by the United States was responsible for causing acid rain in Canada. 123 According to the 1977 amendments to the Clean Air Act, if the Administrator of the EPA determines that American air pollution is causing significant harm in Canada, the EPA must order the states causing the acid rain to reduce [\*172] air pollution. 124 Then, those states would be obligated to intensify the regulation of the private parties contributing to air pollution within the states' jurisdictions. 125 The new Administrator, Thomas, chose to ignore the letter. 126 Intent on reducing acid rain in Canada, the plaintiffs brought suit, arguing that the letter obliged the EPA to force the generating states to revise their air pollution controls. 127 The court found that the letter constituted a rule within the meaning of the APA and that it had not been created as a result of any rulemaking process. 128 The court reasoned that the rule did not fall within any of the § 553(b)(A) exceptions because it affected individual rights and obligations by causing the states to heighten their regulations, which would result in the termination or restriction of numerous utilities and manufacturers. 129 Because the EPA had not followed the notice-and-comment process to create the rule, the EPA was not required to constrain its discretion by abiding by the letter. 130 The holding in Thomas evidences the principle that nonlegislative rules cannot have binding legal effects. 131 Reality, however, may differ from this principle. 132 B. Agencies May Try to Apply Nonlegislative Rules as Law Against Private Parties When agencies treat a nonlegislative rule as law, those rules **will have the practical effect of binding law** because people tend to acquiesce to that which the government informs them constitutes the law. 133 Most members of the public assume all agency rules constitute legitimate law, so **they simply conform to all rules**. 134 By treating nonlegislative [\*173] rules as law, agencies can convince the public into following nonlegislative rules. 135 Occasionally, agencies rely upon nonlegislative rules for enforcement actions. 136 For example, in 1989 in United States v. Picciotto, the Court of Appeals for the District of Columbia reversed a conviction based upon a nonlegislative rule because, by virtue of prescribing unlawful conduct, the rule imposed binding obligations on the public. 137 In 1981, Concepcion Picciotto began a six year, twenty-four-hour-per-day protest against nuclear war across the street from the White House in LaFayette Park. 138 In 1988 the Park Service issued an "additional condition" without performing any notice-and-comment procedures. 139 The additional condition prohibited the storage of property in LaFayette Park beyond that which is reasonably necessary to stage a twenty-four hour protest. 140 A Park Service police officer arrested Picciotto for violating the additional condition. 141 The United States District Court for the District of Columbia found her guilty and gave her a ten-day suspended prison sentence and six months unsupervised probation. 142 The Court of Appeals reversed the conviction, holding that the additional condition was substantive because it imposed obligations enforceable by criminal penalty, even though the Park Service had created it without notice-and-comment. 143 Although Picciotto won her appeal, this case demonstrates how agencies may create rules without notice-and-comment and treat them as binding law. 144 Besides initiating or threatening enforcement actions based on nonlegislative rules, agencies often rely on them to grant or deny applications and permits. 145 Similarly, federal [\*174] agencies can utilize nonlegislative rules to influence programs administered by the states. 146 As the trial court did in Picciotto, courts sometimes agree with the agencies and treat nonlegislative rules as binding law. 147 For instance, in 1993, in United States v. American National Red Cross, the District Court for the District of Columbia issued an injunction against the Red Cross, as part of a settlement, ordering the Red Cross to conform with all of the FDA's nonlegislative rules regarding blood. 148 Concerned with the integrity of the blood supply, the FDA passed numerous legislative and nonlegislative rules regarding how blood was to be handled. 149 Finding that the Red Cross had failed to meet the standards imposed by the FDA, the court specifically differentiated between the FDA's legislative rules and nonlegislative rules, and ordered the Red Cross to abide by both. 150 Therefore, rules created without notice-and-comment became binding law for the Red Cross. 151 [\*175] C. Analysis of the Legal Effects of Nonlegislative Rules The situation in Red Cross must be avoided because it robs the public of the opportunity to offer input on nonlegislative rules. 152 Because the Red Cross, the FDA and the court agreed to this settlement, the FDA's nonlegislative rules regarding blood bind the Red Cross, even though the rules create new law, impose legal obligations, have immediate effects, are not necessarily published in the Federal Register and may have significant effects on the public. 153 Moreover, the public lost the opportunity to participate in the creation of laws that will affect many people, including patients in need of blood transfusions. 154 When courts allow nonlegislative rules to have substantive effects on the public, they undermine the foundation underlying the APA and the notice-and-comment procedures therein. 155 Nonlegislative rules should not impose obligations or immediate effects on the public, and courts and agencies should strive to avoid using them in such a manner. Too often, nonlegislative rules have a **practical binding legal effect because** **people do not realize those rules are not binding**. The parties affected by the rules choose to acquiesce to the rules rather than attract agency attention, they lack the resources to challenge the rules, or they have already fought the rule in court and have given up on the appeals process. 156

#### Lowering penalties while maintaining regulation solves energy production – avoids the link to politics

**House Energy & Commerce Committee 12** ("The Resolving Environmental and Grid Reliability Conflicts Act (H.R. 4273)," http://energycommerce.house.gov/news/PRArticle.aspx?NewsID=9750)

The Resolving Environmental and Grid Reliability Conflicts Act, introduced by Reps. Pete Olson (R-TX) and Mike Doyle (D-PA), Lee Terry (R-NE), Gene Green (D-TX), Adam Kinzinger (R-IL), and Charles Gonzalez (D-TX), will ensure America’s power companies are able to comply with Department of Energy emergency orders to maintain grid reliability **without facing penalties** for violating potentially **conflicting** environmental **laws**. During emergencies affecting electricity supply or delivery, **the** **DOE has the authority** under the Federal Power Act to order electric generators to operate. However, compliance with such an emergency order could trigger a subsequent violation of environmental laws and regulations, potentially exposing the generator to penalties and lawsuits. EPA’s new and proposed power sector regulations could trigger reliability-related emergencies. Interruptions could be expected given the operational challenges associated with maintaining reliability when thousands of megawatts of generation will retire or require retrofits over the next 3 to 4 years. Currently, a DOE-issued emergency order does not trump environmental laws or regulations, meaning generators complying with such a federal order are not protected from violating environmental laws. Astonishingly, companies could be fined or sued for non-compliance with an environmental regulation even though the generator would not have violated the regulation but for following the DOE emergency order. This commonsense, **bipartisan legislation** makes an important clarification to the Federal Power Act so that utilities **will not be subject to penalties** when working with DOE to keep the lights on.

#### Regulations are established by congress – agencies can make internal modifications that avoid political blame

Schillaci 2007 [William C. author of the book Most Misunderstood Regs March 27, “Reining in Guidance Documents” http://enviro.blr.com/whitepapers/ehs-management/epa-environmental-protection-agency/reining-in-guidance-documents/]

"The phenomenon we see in this case is familiar. Congress passes a **broadly worded statute**. The Agency **follows with regulations containing broad language**, open-ended phrases, ambiguous standards and the like. Then as years pass, the Agency issues circulars or **guidance** or memoranda, **explaining**, **interpreting**, **defining** and often expanding the **commands in regulations**. One guidance document may yield another and then another and so on. Several words in a regulation may spawn hundreds of pages of text as the Agency offers more and more detail regarding what its regulations demand of regulated entities. **Law is made, without notice and comment**, without public participation, and without publication in the Federal Register or the Code of Federal Regulations."

### Arctic

**No Arctic conflict**

**Perry and Andersen ‘12** [Charles M. Perry and Bobby Andersen. Dr. Perry is vice president and director of studies at the Institute for Foreign Policy Analysis, Inc., and vice president of National Security Planning Associates, Inc. Dr. Perry also directs and/or contributes to a number of Institute studies that focus on specific aspects of U.S. defense reform and military transformation to meet post-9/11 security challenges. Dr. Perry holds an M.A. in international affairs, an M.A. in law and diplomacy, and a Ph.D. in international politics from the Fletcher School of Law and Diplomacy, Tufts University. He has served as an officer in the United States Army Reserve, and is a member of the International Institute of Strategic Studies (IISS). Bobby Anderson is a research associate at the Institute for Foreign Policy Analysis. She focuses on Nordic affairs, NATO and European security issues, U.S. defense strategy, regional security developments in the Asia-Pacific, changing security dynamics in the Arctic region, “New Strategic Dynamics in the Arctic Region: Implications for National Security and International Collaboration,” February, <http://www.ifpa.org/pdf/StrategicDynamicsArcticRegion.pdf>]

As the polar ice cap continues to melt, giving way to new and ever larger waterways in the Arctic, the world is witnessing nothing less than the opening of a new ocean, something that has not occurred on Earth since the end of the Ice Age. As if its creation were not newsworthy enough, this new, fifth ocean – which will essentially be an expanded and more navigable version of the Arctic Ocean that now exists – holds out the promise as well of new seaways linking Europe and Asia via the High North that could, in the view of numerous maritime experts, substantially reduce travel distances, transit times, and overall transportation costs by the 2030–35 timeframe.1 Adding to the Arctic’s importance even before then is the prospective extraction of significant strategic mineral supplies from the northernmost territories – especially those offshore in the Arctic seabed – of Norway, Russia, Denmark, Canada, and the United States, commonly referred to as the Arctic Five. Most prominent in this context are the Arctic’s oil and gas supplies that are currently projected to account for upwards of 22 percent of the world’s undiscovered but technically recoverable hydrocarbon reserves, the development of which will become increasingly feasible and cost-effective over the next decade. Indeed, for this reason alone, the Arctic Five have quickened their efforts to extend their sovereignty over extended continental shelves (ECS’s)2 where some of the most promising deposits are believed to be located, while other countries with a strong interest (but no territorial claim) in the Arctic and its resource riches – including distant, but energy-hungry economic powerhouses like China, Japan, and South Korea – do their best to retain access to the Arctic and to avoid being marginalized in policy debates over its future. That said, time, cost, and technology constraints appear to be working against any competitive “rush to the Arctic” fueled in part by the lure of an oil and gas bonanza beyond compare along the lines suggested by a number of the more popular studies on Arctic dynamics published in recent years.3 Far more likely is a slow and methodical push into the High North, not the least because there is so much yet to learn (or, in some cases, to relearn) about operating safely in the harsh Arctic landscape, so little infrastructure already (or soon to be) in place to support such operations, and such limited capacity even among the Arctic Five to undertake and sustain Arctic operations of any kind, be they commercial or military in nature. Moreover, while access to – if not control over – offshore Arctic resources remains a strategic goal shared by quite a few influential countries located both within and beyond the Arctic region, the probability of serious interstate rivalry or, in the worst case, open conflict in pursuit of this objective seems quite low, at least in the near- to mid-term future. In the first place, the vast majority of hydrocarbon deposits locked in the Arctic seabed are concentrated within the sovereign territory of one or another of the Arctic Five, where ownership is clear and undisputed. Secondly, while there are disagreements over who owns various resourcerich areas where two or more exclusive economic zones (EEZs)4 and potential ECS’s appear to overlap, the 2010 3 See, for example, Alun Anderson, After the Ice: Life, Death, and Geopolitics in the New Arctic (New York: Smithsonian Books, 2009); David Fairhall, Cold Front: Conflict Ahead in Arctic Waters (London and New York: I. B. Tauris, 2010); Roger Howard, The Arctic Gold Rush: The New Race for Tomorrow’s Natural Resources (London and New York: Continuum, 2009); and Richard Sale and Eugene Potapov, The Scramble for the Arctic: Ownership, Exploitation and Conflict in the Far North (London: Frances Lincoln, 2010). 4 The exclusive economic zone is the offshore zone where coastal states have jurisdiction over economic and resource management, including sovereign rights for the purpose of exploring, exploiting, conserving, and managing natural resources, whether living or nonliving, of the seabed, subsoil, and the superjacent waters. Typically, the EEZ includes waters three to two hundred nautical miles offshore. See National Oceanic and Atmospheric Administration, U.S. Department of Commerce, “What is the EEZ?” http:// agreement between Norway and Russia over how best to divide a sector they both claimed in the Barents Sea, together with a commitment by the Arctic Five in 2008 to abide by procedures set forth in the UN Convention on the Law of the Sea (UNCLOS) for determining the dimensions of each country’s ECS, suggests that a peaceful settlement of any territorial dispute is more likely than not. Third, and finally, the sheer expense and technical challenges involved in extracting oil, gas, and other strategic resources from the Arctic ocean floor argue for a joint, collaborative effort among interested parties, Arctic and non-Arctic alike, as opposed to a “go it alone,” unilateralist approach. These and similar considerations are likely to preserve the Arctic as a “High North, low tension” arena, to borrow a phrase popularized by Norway’s foreign minister, for some years to come. This is not to suggest, however, that the Arctic promises to remain trouble-free as its resources and sea lanes become increasingly accessible. For one thing, it remains unclear what would happen if an Artic Five country whose ECS claim was rejected under UNCLOS procedures refused to abide by the ruling. Given the resource wealth that could be at stake, the resulting standoff could indeed lead to disputes and military posturing by rival claimants that could trigger, in turn, a crisis in the Arctic that might even end up with shots being fired. As for seaborne trade through the Arctic, smugglers and others involved in illicit commerce (possibly including terrorist elements) could eventually seek to take advantage – just as legitimate shippers would – of the shorter routes and transit times offered by Arctic sea lanes, benefits that may seem especially attractive in those areas (likely to be extensive in the wide-open, sparsely populated expanses of the High North) where transit routes are poorly policed. In addition, as its scale and importance grow, transarctic maritime traffic may be viewed as an attractive target for attack by various disaffected groups, especially when ships pass through narrow choke points such as the Bering Strait along the way. Such scenarios may seem far-fetched at the moment, but they cannot be dismissed in the event that a bustling trade in strategic commodities takes hold in the Arctic. This would be especially true were the Arctic to become the locus of a global trade in oil and gas, given all the vulnerabilities associated with offshore production facilities and the supporting infrastructure required to bring supplies to market, as well as the economic costs that could be imposed if important energy flows were disrupted. At the same time, whatever the level of regional tension at any particular time, the Arctic, situated atop three continents, has been and will continue to be, in geostrategic terms, an extremely valuable piece of real estate. Since the late 1950s, for example, the United States has viewed the Arctic Ocean as an ideal location for ballistic missile submarine patrols, and its importance for the strategic mobility of American naval forces, including surface as well as subsurface platforms, will almost certainly grow as Arctic waterways expand and become more navigable. In a similar vein, modern airlift and fighter/bomber aircraft based in Alaska are closer to Japan, South Korea, and China than they would be if they operated from the west coast of the United States, and no more than eight hours’ flight time from anywhere in the Northern Hemisphere, all of which significantly enhances America’s crisis response and power projection capabilities. Moreover, given that the Arctic would be an optimal vector for ballistic missile attacks against the United States originating from Russia, China, North Korea, or even Iran, it is also an ideal location for missile defense and early warning systems designed to handle current and emerging threats, perhaps to include someday – in view of the Arctic’s largely maritime character – sea-based platforms, such as the U.S. Navy’s Aegis-equipped cruisers. The ways in which these and other strategic advantages associated with the Arctic have influenced (and continue to influence) the national security perspectives of the United States, the other Arctic Five countries, and rising global powers (such as China) are discussed in detail in later chapters of this report, but the key point to be made here is that such advantages are real and growing, and that this will remain the case, whether or not the Arctic’s oil and gas deposits are effectively tapped, or its utility as a passageway for seaborne trade is fully exploited. Finally, developments in the Arctic may hold useful lessons for other resource-rich regions where territorial claims remain unsettled and freedom of the seas could be challenged. More specifically, if the Arctic states and other key stakeholders are able to develop a framework for regional collaboration that also respects and protects the national interests of the Arctic Five, a similar approach may also be tried (and eventually prove successful) in, for example, disputed maritime zones like the South China Sea. The geopolitical dynamics of the Arctic and South China Sea regions, of course, are not entirely similar, but there is enough overlap with regard to such issues as ensuring unimpeded maritime passage through international waters, agreeing on procedures for defining the ECS’s of neighboring states, and developing cooperative plans for drilling offshore oil and gas deposits, to warrant some degree of investigation into how well Arctic models of cooperation might apply, and the same may be true with regard to other areas of the globe of rising strategic importance where multiple national, regional, and international interests intersect. While the jury is still out on the best system of governance for the Arctic region as a whole, current trends suggest that a patchwork of relevant private, public, intergovernmental, and nongovernmental organizations, rather than one overarching structure, is the best approach, centered perhaps around a core group of interested parties, which, in the case of the Arctic, would be the Arctic Council.5 As this approach matures, moreover, the Arctic could serve as a valuable laboratory for testing how best to establish and maintain a safe, stable, and secure environment in regions where a diversity of interests, ambitions, and expectations could easily clash, possibly in a violent manner, absent an effective mechanism for multinational and multilateral governance. With these observations in mind, the analysis that follows aims to paint a comprehensive picture of the new strategic map just now emerging in the Arctic, to examine what that portends with regard to the potential for conflict or cooperation within the region, and, on that basis, to determine as clearly as possible the likely policies and priorities of the Arctic Five and other key regional stakeholders, and the skills and capabilities to operate in the Arctic that they will require as a result. Chapter 2 sets the overall stage insofar as major region-wide dynamics are concerned, focusing in particular on the emergence of more navigable Arctic sea lanes, the scale and accessibility of the 5 Formally established in 1996, the Arctic Council is a high-level intergovernmental forum whose aim is to promote cooperation, coordination, and interaction among the Arctic states (which includes the Arctic Five plus Iceland, Sweden, and Finland), with involvement of Arctic indigenous communities and other key stakeholders that may be granted permanent observer status. Traditionally, the council has focused on issues of sustainable development and environmental protection in the Arctic, but, as the Arctic becomes more accessible, the council has branched out to address search and rescue, oil spill response at sea, and other civil emergency requirements. Now that the council has set up a permanent secretariat in Tromsø, Norway (following the 2011 ministerial in Nuuk, Greenland), it is poised to play a more catalytic role in future debates over how best to manage the Arctic region. See the Arctic Council website, http://www. arctic-council.org/index.php/en/about-us. Arctic’s strategic resources, and ongoing challenges with regard to Arctic governance. Chapter 3 explores in depth the strategic interests of the Arctic Five countries and the steps they are taking to safeguard those interests, while chapter 4 analyzes the priorities and programs of the other national and institutional stakeholders in the future of the Arctic, including the non-coastal Arctic states (Iceland, Sweden, and Finland) and the major Asian powers noted above (China, Japan, and South Korea), as well as NATO and the EU. Finally, chapter 5 offers some summary conclusions and policy recommendations, with an emphasis on what the United States needs to do to assert its leadership as this “new Arctic” described at the outset continues to take shape.

#### Sub dominance US would decisively win an Arctic war- no escalation

**Axe ‘11** [David, Military correspondent and contributor or editor to the Washington Times, C-SPAN, Wired, World Politics Review, and more, “How the U.S. Wins the Coming Arctic War”, Wired, 1/11/11, http://www.wired.com/dangerroom/2011/01/how-the-u-s-wins-the-coming-arctic-war/]

But these tales, my versions included, usually omit two vital points: that Arctic conflict is unlikely to occur at all; and even if it does, the U.S. will have an overwhelming advantage over any rival. **The Washington Post** was the latest to repeat the Arctic-war theme, in a story published yesterday. “The Arctic is believed to hold nearly a quarter of the world’s untapped natural resources and a new passage could shave as much as 40 percent of the time it takes for commercial shippers to travel from the Atlantic to the Pacific,” Jacquelyn Ryan wrote. But, she added, “government and military officials are concerned the United States is not moving quickly enough to protect American interests in this vulnerable and fast-changing region.” Specifically, the U.S. does not have enough icebreakers or permanent bases on the Alaskan north slope. Canada andRussia, by contrast, are buying ice-hardened Arctic ships and building new facilities to enforce their Arctic claims, Ryan pointed out. The thing is, it’s not icebreakers and patches of wind-blasted tarmac that would really matter in some future North Pole showdown. In the Arctic, as in any sea battle, American nuclear attack submarines — quiet, versatile and lethal — would make all the difference. U.S. subs have been sneaking around under the Arctic ice, and occasionally surfacing, for decades. Today, they even carry geologists and other scientists in order to help map Arctic mineral deposits. “In addition to being more heavily armed than most foreign boats, U.S. submarines generally have superior quieting and combat systems, better-trained crewmen, and much more rigorous maintenance standards,” Bob Work wrote in 2008, before becoming Navy undersecretary. “As a result, the U.S. submarine force has generally been confident that it could defeat any potential undersea opponent, even if significantly outnumbered.” But in the Arctic, facing only the Canadians, Russians, Danes and Norwegians — none of whom have large or healthy sub fleets — the U.S. Navy’s 50 **Los Angeles**-, **Seawolf**- and **Virginia**-class subs would be more numerous as well as more powerful. And besides, an Arctic war is highly unlikely, at best. “Militarized conflict over the Arctic is unlikely, and regional disputes are unlikely to cause an overall deterioration in relations between or among polar nations,” the Carnegie Endowment for International Peace concluded in a 2009 conference. “Security issues should not be sensationalized in order to attract attention towards the Arctic.” But it’s rare anyone writes stories about how we’ve got enough weapons — and don’t really need them, besides. After all, it’s the sensational stories about shortages and looming disaster that sell newspapers.

No risk of a bioterror attack, and there won’t be retaliation - your evidence is hype

Matishak 10 (Martin, Global Security Newswire, “U.S. Unlikely to Respond to Biological Threat With Nuclear Strike, Experts Say,” 4-29, http://www.globalsecuritynewswire.org/gsn/nw\_20100429\_7133.php)

WASHINGTON -- The United States is not likely to use nuclear force to respond to a biological weapons threat, even though the Obama administration left open that option in its recent update to the nation's nuclear weapons policy, experts say (See GSN, April 22). "The notion that we are in imminent danger of confronting a scenario in which hundreds of thousands of people are dying in the streets of New York as a consequence of a biological weapons attack is fanciful," said Michael Moodie, a consultant who served as assistant director for multilateral affairs in the U.S. Arms Control and Disarmament Agency during the George H.W. Bush administration. Scenarios in which the United States suffers mass casualties as a result of such an event seem "to be taking the discussion out of the realm of reality and into one that is hypothetical and that has no meaning in the real world where this kind of exchange is just not going to happen," Moodie said this week in a telephone interview. "There are a lot of threat mongers who talk about devastating biological attacks that could kill tens of thousands, if not millions of Americans," according to Jonathan Tucker, a senior fellow with the James Martin Center for Nonproliferation Studies. "But in fact, no country out there today has anything close to what the Soviet Union had in terms of mass-casualty biological warfare capability. Advances in biotechnology are unlikely to change that situation, at least for the foreseeable future." No terrorist group would be capable of pulling off a massive biological attack, nor would it be deterred by the threat of nuclear retaliation, he added. The biological threat provision was addressed in the Defense Department-led Nuclear Posture Review, a restructuring of U.S. nuclear strategy, forces and readiness. The Obama administration pledged in the review that the United States would not conduct nuclear strikes on non-nuclear states that are in compliance with global nonproliferation regimes. However, the 72-page document contains a caveat that would allow Washington to set aside that policy, dubbed "negative security assurance," if it appeared that biological weapons had been made dangerous enough to cause major harm to the United States. "Given the catastrophic potential of biological weapons and the rapid pace of biotechnology development, the United States reserves the right to make any adjustment in the assurance that may be warranted by the evolution and proliferation of the biological weapons threat and U.S. capacities to counter that threat," the posture review report says. The caveat was included in the document because "in theory, biological weapons could kill millions of people," Gary Samore, senior White House coordinator for WMD counterterrorism and arms control, said last week after an event at the Carnegie Endowment for International Peace. Asked if the White House had identified a particular technological threshold that could provoke a nuclear strike, Samore replied: "No, and if we did we obviously would not be willing to put it out because countries would say, 'Oh, we can go right up to this level and it won't change policy.'" "It's deliberately ambiguous," he told Global Security Newswire. The document's key qualifications have become a lightning rod for criticism by Republican lawmakers who argue they eliminate the country's previous policy of "calculated ambiguity," in which U.S. leaders left open the possibility of executing a nuclear strike in response to virtually any hostile action against the United States or its allies (see GSN, April 15). Yet experts say there are a number of reasons why the United States is not likely to use a nuclear weapon to eliminate a non-nuclear threat. It could prove difficult for U.S. leaders to come up with a list of appropriate targets to strike with a nuclear warhead following a biological or chemical event, former Defense Undersecretary for Policy Walter Slocombe said during a recent panel discussion at the Hudson Institute. "I don't think nuclear weapons are necessary to deter these kinds of attacks given U.S. dominance in conventional military force," according to Gregory Koblentz, deputy director of the Biodefense Graduate Program at George Mason University in Northern Virginia. "There's a bigger downside to the nuclear nonproliferation side of the ledger for threatening to use nuclear weapons in those circumstances than there is the benefit of actually deterring a chemical or biological attack," Koblentz said during a recent panel discussion at the James Martin Center. The nonproliferation benefits for restricting the role of strategic weapons to deterring nuclear attacks outweigh the "marginal" reduction in the country's ability to stem the use of biological weapons, he said. In addition, the United States has efforts in place to defend against chemical and biological attacks such as vaccines and other medical countermeasures, he argued. "We have ways to mitigate the consequences of these attacks," Koblentz told the audience. "There's no way to mitigate the effects of a nuclear weapon." Regardless of the declaratory policy, the U.S. nuclear arsenal will always provide a "residual deterrent" against mass-casualty biological or chemical attacks, according to Tucker. "If a biological or chemical attack against the United States was of such a magnitude as to potentially warrant a nuclear response, no attacker could be confident that the U.S. -- in the heat of the moment -- would not retaliate with nuclear weapons, even if its declaratory policy is not to do so," he told GSN this week during a telephone interview. Political Benefits Experts are unsure what, if any, political benefit the country or President Barack Obama's sweeping nuclear nonproliferation agenda will gain from the posture review's biological weapons caveat. The report's reservation "was an unnecessary dilution of the strengthened negative security and a counterproductive elevation of biological weapons to the same strategic domain as nuclear weapons," Koblentz told GSN by e-mail this week. "The United States has nothing to gain by promoting the concept of the biological weapons as 'the poor man's atomic bomb,'" he added.

### OffShore Development

**Our fleet can take anyone’s—no challengers**

Robert O. **Work 12**, United States Under Secretary of the Navy and VP of Strategic Studies @ Center for Strategic and Budgetary Assessments, "The Coming Naval Century," May, Proceedings Magazine - Vol. 138/5/1311, US Naval Institute, www.usni.org/magazines/proceedings/2012-05/coming-naval-century

For those in the military concerned about the impact of such cuts, I would simply say four things:¶ • Any grand strategy starts with an assumption that all resources are scarce, requiring a balancing of commitments and resources. As political commentator Walter Lippmann wrote: “The nation must maintain its objectives and its power in equilibrium, its purposes within its means, and its means equal to its purposes.”¶ • The upcoming defense drawdown will be less severe than past post–World War II drawdowns. Accommodating cuts will be hard, but manageable.¶ • At the end of the drawdown, the United States will still have the best and most capable armed forces in the world. The President well appreciates the importance of a world-class military. “The United States remains the only nation able to project and sustain large-scale military operations over extended distances,” he said. “We maintain superior capabilities to deter and defeat adaptive enemies and to ensure the credibility of security partnerships that are fundamental to regional and global security. In this way our military continues to underpin our national security and global leadership, and when we use it appropriately, our security and leadership is reinforced.”¶ • Most important, as the nation prioritizes what is most essential and brings into better balance its commitments and its elements of national power, we will see the beginning of a Naval Century—**a new golden age of American sea power**.¶ The Navy Is More Than Ships¶ Those who judge U.S. naval power solely by the number of vessels in the Navy’s battle force are not seeing the bigger picture. Our battle force is just one component—albeit an essential one—of a powerful National Fleet that includes the broad range of capabilities, capacities, and enablers resident in the Navy, Marine Corps, and Coast Guard. It encompasses our special-mission, prepositioning, and surge-sealift fleets; the ready reserve force; naval aviation, including the maritime-patrol and reconnaissance force; Navy and Marine special operations and cyber forces; and the U.S. Merchant Marine. Moreover, it is crewed and operated by the finest sailors, Marines, Coast Guardsmen, civilian mariners, and government civilians in our history, and supported by a talented and innovative national industrial base.¶ If this were not enough, the heart of the National Fleet is a Navy–Marine Corps team that is transforming itself from an organization focused on platforms to a total-force battle network that interconnects sensors, manned and unmanned platforms with modular payloads, combat systems, and network-enabled weapons, as well as tech-savvy, combat-tested people into a cohesive fighting force. This Fleet and its network would make short work of any past U.S. Fleet—and of any potential contemporary naval adversary.

**No chance of African war:**

**Habyarimana 08 -** [james habyarimana is assistant professor of public policy at georgetown university. Macartan humphreys is assistant professor of political science at columbia university. Daniel posner is associate professor of political science at ucla. Jeremy weinstein is assistant professor of political science at stanford university. Richard rosecrance is adjunct professor of public policy at the john f. Kennedy school of government and senior fellow at the belfer center for science and international affairs, both at harvard university. Arthur stein is professor of political science at ucla., “is ethnic conflict inevitable?,” foreign affairs july/august  
08, <http://www.foreignaffairs.com/articles/64457/james-habyarimana-macartan-humphreys-daniel-posner-jeremy-weinst/is-ethnic-conflict-inevitable>]

If correct, his conclusion has profound implications both for the likelihood of peace in the world and for what might be done to promote it. But is it correct? Do ethnic divisions inevitably generate violence? And why does ethnic diversity sometimes give rise to conflict?

In fact, ethnic differences are not inevitably, or even commonly, linked to violence on a grand scale. The assumption that because conflicts are often ethnic, ethnicity must breed conflict is an example of a classical error sometimes called "the base-rate fallacy." In the area of ethnic conflict and violence, this fallacy is common. To assess the extent to which Muller falls prey to it, one needs some sense of the "base."

How frequently does ethnic conflict occur, and how often does it occur in the context of volatile mismatches between ethnic groups and states? A few years ago, the political scientists James Fearon and David Laitin did the math. They used the best available data on ethnic demography for every country in Africa to calculate the "opportunities" for four types of communal conflict between independence and 1979: ethnic violence (which pits one group against another), irredentism (when one ethnic group attempts to secede to join co-ethnic communities in other states), rebellion (when one group takes action against another to control the political system), and civil war (when violent conflicts are aimed at creating a new ethnically based political system). Fearon and Laitin identified tens of thousands of pairs of ethnic groups that could have been in conflict. But they did not find thousands of conflicts (as might have been expected if ethnic differences consistently led to violence) or hundreds of new states (which partition would have created). Strikingly, for every one thousand such pairs of ethnic groups, they found fewer than three incidents of violent conflict. Moreover, with few exceptions, African state boundaries today look just as they did in 1960. Fearon and Laitin concluded that communal violence, although horrifying, is extremely rare.

The base-rate fallacy is particularly seductive when events are much more visible than nonevents. This is the case with ethnic conflict, and it may have led Muller astray in his account of the triumph of European nationalism. He emphasizes the role of violence in homogenizing European states but overlooks the peaceful consolidation that has resulted from the ability of diverse groups -- the Alsatians, the Bretons, and the Provençals in France; the Finns and the Swedes in Finland; the Genoese, the Tuscans, and the Venetians in Italy -- to live together. By failing to consider the conflicts that did not happen, Muller may have misunderstood the dynamics of those that did.

Of course, ethnic divisions do lead to violent conflict in some instances. Violence may even be so severe that partition is the only workable solution. Yet this extreme response has not been required in most cases in which ethnic divisions have existed. Making sense of when ethnic differences generate conflict -- and knowing how best to attempt to prevent or respond to them when they do -- requires a deeper understanding of how ethnicity works.

No Korean escalation or extinction

National Post, 9 [“A ticking bomb on Korean peninsula”, 5-28, Lexis]

Q What are the chances of war? A Very low. North Korea is highly unlikely to repeat its invasion of the South because this would entail a war with the United States that Mr. Kim would certainly lose. Staying in power is Mr. Kim's one overriding aim. If he begins a general war, this would undoubtedly cause the downfall of his regime. Q What are the other possibilities? A Small-scale clashes are likely. The maritime boundary in the Yellow Sea has never been agreed. This could be the setting for naval skirmishes, especially if the United States and South Korea stop and search ships using Northern ports. Q What about North Korea's nuclear weapons? A North Korea is believed to have built a small arsenal of nuclear bombs -- perhaps fewer than 10 -- using plutonium taken from its reactor at Yongbyon. But these are not as threatening as you might think. North Korea has probably failed to convert them into nuclear warheads for delivery by a missile. So dropping the bombs from a plane would be the only way of conducting a nuclear attack. Any military aircraft taking off in North Korean airspace during a war would probably be shot down very quickly. Q So what is the worst that North Korea can do? A The biggest danger for South Korea is that its capital, Seoul, is only 50 kilometres from the border with the North. This means that 20 million South Koreans live within range of Mr. Kim's heavy artillery. North Korea's army deploys 17,900 artillery pieces, many of them aimed at Seoul. In the event of war, these guns could fire between 300,000 and 500,000 high explosive shells at Seoul every hour.

### Helium

#### Not a supply and demand problem- artificial short term shortage thumps the da, but long term supplies solve

Belsie ’10-2-12 (Laurent Belsie Business Editor By Laurent Belsie, Staff writer / October 2, 2012, http://www.csmonitor.com/Environment/Energy-Voices/2012/1002/Helium-shortage-Bureaucrats-firms-are-creating-too-little-hot-air

Helium may be the second most abundant element in the universe, but it's becoming increasingly scarce here in the United States, which is raising prices worldwide for everyone from physicists to computer chipmakers to mylar balloon vendors. And because the US supplies 75 percent of the world market for the stuff, the helium shortage has become a global problem. But the supply-demand imbalance isn't coming from market forces, **it's a public-private vacuum. The federal government is getting out of the business** after more than eight decades, and so far private industry hasn't stepped in to fill the void. RELATED: What are the Top 5 rare earth minerals? The result: **a shortage of hot air that may last until sometime next year.** There are no reports that the helium shortage has caused any huge crises. Hospitals, which use liquid helium to freeze the magnets in MRI scanners, are still getting supplies. So are arc welders and particle physicists. Balloon racers are switching to hydrogen. Helium balloon retailers are raising prices. And the University of Nebraska, which last month filled only half the usual 5,000 red helium balloons it normally releases at the beginning of football season, has put its seven-decade tradition on hiatus**. The US holds an even more dominant role in helium than Saudi Arabia does in oil** because natural gas fields in Texas and Kansas have an unusually high concentration of helium. Natural gas production is currently **the only way to profitably extract the** lighter-than-air **gas**. Canada, Russia, Qatar, and Algeria are among the only other helium producers in the world. Considered a critical resource, the US government has been extracting the element since 1929, when it built a helium extraction and purification plant in Texas, and later maintained a helium reserve. But in 1996, Congress passed the Helium Privatization Act, which aimed to get private industry to take over from the government in supplying helium to the marketplace. The Federal Helium Reserve has been raising prices to pay off the debt it incurred decades ago to build its helium plant. But the reserve is dwindling and the federal government will be forced to cut back supplies after 2014. It hasn't helped that natural gas production is also down because of low prices. Private firms were supposed to fill the helium vacuum. But new plants in **Qatar and Russia aren't expected to come online until next year**. A Wyoming natural gas plant, which was due to open last year and supply 10 percent of the **world's helium**, has been delayed by a host of issues. It's owner, Denver-based Denbury Resources, recorded a pretax $4 million charge in the second quarter related to the delay and does not expect the plant to open until "near **the end of** **2012**." So the **man-made** helium shortage looks likely to continue for the **months** ahead**,** even in the Saudi Arabia of hot air.

#### Status sqo solves the impact – hydrogen gas generators

AZom 2/7/13 (“Solutions to the World Helium Shortage Offered by Peak Scientific”) http://www.azom.com/news.aspx?newsID=35638

Helium has dominated gas chromatography due to the level comparison between it, hydrogen and nitrogen. Nitrogen is less efficient than helium and hydrogen has been avoided in the past due to safety concerns with hydrogen cylinders. These concerns are based on hydrogen cylinders being fairly unstable if not stored correctly or containing too much pressure. Peak Scientific’s solution to this is the [Hydrogen Gas Generator](http://www.peakscientific.com/page/410-laboratory-hydrogen-generator/). Much more efficient in gas chromatography than nitrogen, Hydrogen Gas Generators now eliminate many of the original safety concerns associated with hydrogen cylinders as well as providing laboratories with a continuous supply of hydrogen for gas chromatography applications. Hydrogen Gas Generators are small enough to fit into most labs, are easy to use and very efficient. Rather than being created remotely and then bottled, transported and stored the hydrogen is generated on demand right there in the lab through the electrolysis of water. This means that switching to this alternative will ensure gas chromatographers no longer need to worry about[gc carrier gas](http://www.peakscientific.com/page/428-applications-peak-scientific) supply or increasing in cost of helium. Switching can be achieved with very little effect on previous Gas Chromatography analysis and provides a safe, sustainable, affordable and long-term supply.

#### US is falling behind in science leadership now – STEM shortage

Casey 12 (Bob, Report by the Joint Economic Committee Chairman’s Staff, “STEM Education: Preparing for the Jobs of the Future”) http://www.jec.senate.gov/public/index.cfm?a=Files.Serve&File\_id=6aaa7e1f-9586-47be-82e7-326f47658320

The United States is falling behind in international comparisons when it comes to providing an adequate supply of STEM workers. While we should be cautious in making international comparisons of countries which have dramatically varying sizes, diversity of populations, and industrial policies, the U.S. continues to fall behind key international competitors across a wide set of different measures of STEM preparedness. While the U.S. produces by far the greatest number of STEM degree recipients among OECD countries (348,484 in 2008), adjusting for the overall number of degrees and for the population paints a different picture. By one measure – the share of students receiving degrees in STEM fields – the U.S. compares unfavorably with other global competitors. For example, NAFTA members Canada and Mexico, and many European nations including economic powerhouse Germany, graduate more STEM students as a share of all degrees than the United States does. 30 (See Table below.) This is also true when looking at STEM graduates as a share of the employed 25-34 year old population, where the U.S. ranks 23rd among OECD countries. American students’ performance on international standardized tests suggests problems earlier in the STEM pipeline. For example, U.S. 15-year-olds rank 25th in math and 17th in science in PISA scores among OECD nations. As discussed below, other international comparisons as well as performance on domestic examinations suggest that problems in U.S. STEM education may begin as early as elementary school and continue through students’ secondary and post-secondary education.

**No impact to science diplomacy**

**Dickson 9** [David, Direction Science & Development Network. June 2, 2009, “Science diplomacy: the case for caution”, [http://scidevnet.wordpress.com/category/new- frontiers-in-science-diplomacy-2009](http://scidevnet.wordpress.com/category/new-%20frontiers-in-science-diplomacy-2009), SM]

One of the frustrations of meetings at which scientists gather to discuss policy-related issues is the speed with which the requirements for evidence-based discussion they would expect in a professional context can go out of the window. Such has been the issue over the past two days in the meeting jointly organised in London by the American Association for the Advancement of Science (AAAS) and the Royal Society on the topic “New Frontiers in Science Diplomacy“. There has been much lively discussion on the value of international collaboration in achieving scientific goals, on the need for researchers to work together on the scientific aspects of global challenges such as climate change and food security, and on the importance of science capacity building in developing countries in order to make this possible. But there remained little evidence at the end of the meeting on how useful it was to lump all these activities together under the umbrella term of “science diplomacy”. More significantly, although numerous claims were made during the conference about the broader social and political value of scientific collaboration – for example, in establishing a framework for collaboration in other areas, and in particular reducing tensions between rival countries – little was produced to demonstrate whether this hypothesis is true. If it is not, then some of the arguments made on behalf of “science diplomacy”, and in particular its value as a mechanism for exercising “soft power” in foreign policy, do not stand up to close scrutiny. Indeed, a case can be made that where scientific projects have successfully involved substantial international collaboration, such success is often heavily dependent on a prior political commitment to cooperation, rather than a mechanism for securing cooperation where the political will is lacking. Three messages appeared to emerge from the two days of discussion. Firstly, where the political will to collaborate does exist, a joint scientific project can be a useful expression of that will. Furthermore, it can be an enlightening experience for all those directly involved. But it is seldom a magic wand that can secure broader cooperation where none existed before. Secondly, “science diplomacy” will only become recognised as a useful activity if it is closely defined to cover specific situations (such as the negotiation of major international scientific projects or collaborative research enterprises). As an umbrella term embracing the many ways in which science interacts with foreign policy, it loses much of its impact, and thus its value. Finally, when it comes to promoting the use of science in developing countries, a terminology based historically on maximising self-interest – the ultimate goal of the diplomat – and on practices through which the rich have almost invariably ended up exploiting the poor, is likely to be counterproductive. In other words, the discussion seemed to confirm that “science diplomacy” has a legitimate place in the formulation and implementation of policies for science (just as there is a time and place for exercising “soft power” in international relations). But the dangers of going beyond this – including the danger of distorting the integrity of science itself, and even alienating potential partners in collaborative projects, particularly in the developing world – were also clearly exposed.

### Solvency

**Restrictions irrelevant- prices too low to incentivize drilling**

**Harder, 12** -- National Journal energy correspondent

(Amy, "The Price Isn't Right," National Journal Daily AM, 1-31-12, l/n, accessed 9-5-12, mss)

For the United States to really capitalize on all the natural gas President Obama is boasting about, the price of it has to go up so that companies have an incentive to drill. Calling for high energy prices doesn't make political sense. But Obama is implicitly trying to do that by pushing incentives for natural-gas-powered trucks and cars that could boost demand for the energy sourceand therefore prices. Obama traveled to the battleground states of Nevada and Colorado last week to tout such a proposal in the wake of his State of the Union address. Legislation incentivizing natural-gas-powered trucks is politically popular and has Republican support in Congress. Such a measure would have the potential to create jobs, bolster energy independenceand raise natural-gas prices. The administration is quietly taking two other politically controversial steps that could also boost natural-gas demand: implementing environmental regulations that are prompting utilities to shift from coal to the relatively cleaner-burning natural gas, and processing applications from companies to export natural gas. With the nation's natural-gas prices under $3 per million British thermal units (a worldwide low, and down from nearly $14 per million Btu in 2008), oil and gas companies are shifting investments from America's recently discovered vast shale gas reserves to resources that fetch higher prices such as oil. Energy analysts say that this trend will continue for at least the next few years until prices reach a level where it becomes more profitable to produce gas.

#### Fossil fuel lobby floods offshore drilling debate with misinformation

Kaplun, 8 -- Greenwire reporter

[Alex, "ANWR efforts flounder despite growing support for domestic production," Greenwire, 7-16-8, l/n, accessed 2-6-13, mss]

Athan Manuel, a lobbyist for the Sierra Club, also said that the long fight over ANWR has hardened positions on the issue, though he also said the push for offshore oil and gas production has been **fueled by the industry's ability to provide** what he called "**misinformation**." "I think probably the biggest issue," Manuel said, "is that the proponents of offshore drilling have gotten away with misinformation easier than the proponents of ANWR drilling."

#### Alt cause- worker shortage [not enough workers for current rigs]

Sixel, 12 -- Fuel Fix writer

[L.M., "Drilling company looks high and low for workers," Fuel Fix, 12-10-12, fuelfix.com/blog/2012/12/10/drilling-company-looks-high-and-low-for-workers/, accessed 2-6-12, mss]

Drilling company looks high and low for workers

How hot is offshore drilling? So hot that it’s hard to find enough roustabouts, mechanics and experienced managers to staff all the rigs **under construction**. So hot that Ensco, with six new rigs set to debut over the next two years, will need 1,000 more people, said Kurt Basler, the company’s manager of strategic staffing in Houston. So hot that some 20,000 to **25,000** offshore workers will be needed industrywide over the next two to three years, Basler said. “**The shortages are acute everywhere**,” said Steve Colville, president and CEO of the International Association of Drilling Contractors in Houston. The search for workers with the right skills who would be the right fit has sent companies like Ensco looking outside traditional oil and gas businesses. Not everyone is enthusiastic about working 12 hours a day for up to 28 days straight on a drilling rig half a world away.

**No solvency- timeframe**

**Manuel, 6** -- U.S. Public Interest Research Group preservation director

[Athan, "House Shreds Offshore Drilling Moratorium," Common Dreams, 6-29-6, www.commondreams.org/news2006/0629-14.htm, accessed 1-17-13, mss]

New offshore drilling won't help address problems today, tomorrow or next year. It's **the slowest**, dirtiest and most expensive way to meet our energy needs and it would threaten our beaches with pollution and potential oil spills and destroy billion-dollar tourism and fishing industries. There are faster, cheaper, cleaner and longer-term energy solutions like energy efficiency and clean, renewable energy that will start saving families and businesses money today and protect our coastal waters, beaches and economies. In the seven years we would wait for offshore gas to come online, we could reduce natural gas demand by 8% through efficiency and renewables.

#### Access is irrelevant- shale and economics

Weiss, 12 -- Center for American Progress Action Fund senior fellow

[Daniel, "The American Energy Initiative," Congressional Documents and Publications, 9-13-12, l/n, accessed 1-31-13, mss]

In addition to the idle leases, there have been several indications that the industry is less interested in the actual resources available on public lands and waters. As the Energy Information Administration put it: The rapid increase in natural gas production from shale resources over the last 5 years has significantly affected natural gas prices and the relative attractiveness of Federal and Indian lands as areas for development of conventional natural gas resources. n92 As the price of natural gas dropped, there was a dramatic decline in the amount of public land nominated by the industry for leasing. Since fiscal year 2006 there has been nearly a 67 percent decline in the amount of onshore public land nominated by the industry in the Rocky Mountain States. n93 As one industry expert told The Wall Street Journal, "It is safe to say that there will be fewer natural gas wells drilled in 2012." n94 Given the current low price of natural gas, **there is simply less demand from industry to drill at all**, let alone on public lands. In addition, the oil and gas industry has been less focused on public lands and waters, since many of the **best resources** are currently located on private land. And oil companies drill where the best resources are.

#### Harsh conditions mean companies can’t drill- lack of safeguards kill solvency

**Heiman 1-25**-13 [Marilyn Heiman is the director of the Pew Environment Group’s U.S. Arctic Program, “We’re Not Yet Arctic-Ready,” http://energy.nationaljournal.com/2013/01/are-arctic-oildrilling-challen.php?comments=expandall#comments]

The recent grounding of a Shell oil rig near Alaska’s Kodiak Island may have been the biggest mishap of the 2012 Arctic drilling season, but it was hardly the only one. This past year the exploration in America’s Arctic Ocean has been characterized by one problem after another, including the near grounding of a second rig and safety and engineering concerns that prevented deployment of a promised oil spill containment barge. Taken together, these missteps raise a serious question that goes beyond any single accident or, for that matter, any single oil company: Is the United States ready to drill in such a remote and risky setting?¶ The most publicized of the season’s many incidents was the grounding of the drill rig Kulluk on New Year’s Eve in the Gulf of Alaska as it was being towed south through a fierce storm. The towing vessel’s engines failed, and the towline broke multiple times in 25-foot seas and 50 mile-per-hour winds.¶ As luck would have it, the grounding occurred within reach of the largest U.S. Coast Guard station in Alaska. Coast Guard helicopters evacuated the 18 crew members, a multi-agency team of 730 people oversaw efforts to free the grounded rig, and no oil was spilled.¶ But imagine if this incident had happened near the actual drill sites farther north in Alaska’s remote Chukchi and Beaufort seas, where Arctic conditions can be even harsher and distance from help is much greater. Hurricane-force winds, high seas, impenetrable fog, and shifting sea ice are common. The region has no major roads, ports, or airports. The Coast Guard station at Kodiak is more than 1,000 miles away, and a response would be daunting.¶ America’s Arctic Ocean is central to the sustenance and culture of indigenous communities that have depended on its bounty for thousands of years. Its ice-covered waters support bowhead whales, Pacific walrus, ice seals, polar bears, and other marine mammals found nowhere else in the United States. Its brief summers draw millions of migratory birds to feed and breed.¶ To protect this national treasure, the United States needs a comprehensive, science-based management plan that preserves traditional cultural areas and ecologically important habitats.¶ Arctic-specific safety, spill prevention, and response standards must be adopted to stand up to the region’s extreme conditions. As the past season showed, those standards aren’t in place.

#### No Arctic infrastructure for the plan- multiple reasons

**DoD ‘11** [US Department of Defense, “Report to Congress on Arctic Operations and the Northwest Passage” May 2011; < <http://www.defense.gov/pubs/pdfs/Tab_A_Arctic_Report_Public.pdf>]

Construction in the Arctic is seasonal and skilled labor is usually in short supply; therefore, costs for both construction and maintenance are high. The need to provide room and board at remote locations, decreased efficiency of workers and machinery in extreme environmental conditions, and the difficulties, costs, and risks in shipping materials and equipment add to the challenge. Because of the short construction season, outside work must be accomplished quickly, dictating a high degree of expensive prefabricated construction. During ice-free periods, the most economical means of transportation is by barge. During the winter, transportation over frozen rivers and lakes may be more economical than air transportation. But delays in shipping equipment due to weather can result in prolonged construction times and expensive emergency air freight costs. Construction in the Arctic costs, as a rule of thumb, three to five times more than comparable infrastructure in lower latitudes. Another challenge to bear in mind is the risk to existing infrastructure posed by thawing permafrost. As the permafrost thaws, it loses strength and volume, leading to failure of foundations and piling. The warming climate will also accelerate the erosion of shorelines and riverbanks, threatening infrastructure located on eroding shorelines.