

**Committee on Energy and Commerce
Subcommittee on Energy, Climate, and Grid Security
U.S. House of Representatives
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**Written Statement of Ben Lieberman
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**Hearing on “Keeping the Lights On: Enhancing
Reliability and Efficiency to Power American Homes.”**

Summary

- Department of Energy efficiency standards for home appliances have long reached the point of overregulation and now cause more harm than good for consumers.
- Rather than fix the problems with existing standards, the agency is doubling down with a host of new ones as part of the Biden administration’s climate agenda.
- Proposed efficiency standards for appliances that come in both natural gas and electric versions are especially troublesome because they are being misused to skew the market towards electrification, with potentially adverse impacts on consumers and on grid reliability.
- Each of the new regulations proposed this year will inflict further damage on product quality and value, constrain consumer choice, and violate the consumer protections in the law. For these reasons, they should be withdrawn.
- Congress should consider sunseting this program, or at least limiting the agency’s authority to set additional regulations while also facilitating the revocation of existing ones that are harming consumers.

Chair Duncan, Ranking Member DeGette, and members of this subcommittee, thank you for the opportunity to testify today. My name is Ben Lieberman and I am a Senior Fellow at the

Competitive Enterprise Institute (CEI) a non-partisan public policy organization that concentrates on regulatory issues from a free-market perspective. I work in CEI's Energy and Environment Department where I cover a number of regulatory programs, including Department of Energy (DOE) appliance efficiency standards. Prior to joining CEI in 2018, I was a staff member on this Committee where I also worked on DOE appliance regulations as well as other issues.

When I was here, the problem of appliance overregulation was already serious enough that we held hearings on the program and considered measures to reform it. However, over the last two years and especially thus far in 2023, things have really gone too far.

As we all recall, the year began with a commissioner on the Consumer Product Safety Commission (CPSC) telling the media that a ban on gas stoves was a real possibility, followed by strenuous denials from the Biden administration that any such ban was in the cards.

But within weeks of those denials, the administration launched a second regulatory attack on stoves, this time from DOE. The pending stove efficiency standards join other DOE proposals impacting furnaces, dishwashers, clothes washers, refrigerators, ceiling fans, and most recently water heaters. And the year isn't over yet. CEI has filed comments critical of several of these proposed rules and are a party to litigation regarding another. Other rules have recently been finalized or are now going into effect such as the ones for air conditioners and incandescent light bulbs.

Although every one of these regulations is a bad deal for consumers, I would like to highlight a few that exemplify specific problems that need to be addressed in any appliance regulation reform efforts.

Dishwashers – Overregulation on Steroids

Dishwashers may already be the single most badly overregulated appliance (though some might say clothes washers), but DOE has proposed yet another round of energy and water limits for them, its fifth one. CEI submitted a comment to DOE requesting that the proposed rule be withdrawn.¹

Past rules have already caused a great deal of annoyance and inconvenience for dishwasher owners. The main issue is that previous standards have increased the time it takes to do a load of dishes from about one hour in pre-standards models to more than two today. DOE has acknowledged that the longer cycle times are a direct result of its rules. In the agency's words, "[t]o help compensate for the negative impact on cleaning performance associated with decreasing water use and water temperature, manufacturers will typically increase the cycle time."² The proposed rule would very likely make things worse.

Past regulations have also likely diminished dishwasher cleaning performance, leading to increased incidence of people having to rinse dishes before or after running them in the dishwasher, as well as the increased need to run the dishwasher twice. Not only is this inconvenient, but it undercuts and possibly negates the energy and water savings that are the rationale for these regulations.

Rather than make things worse by proposing yet another round of more stringent energy and water limits, DOE should be working to fix the harm caused by the previous regulations. The underlying statute, the Energy Policy and Conservation Act of 1975 (EPCA), gives the

¹ Comments of the Competitive Enterprise Institute and Michael Mannino on Energy Conservation Standards for Dishwashers, July 18, 2023, https://cei.org/regulatory_comments/comment-on-energy-conservation-standards-for-dishwashers/.

² Department of Energy, 2016-11-22 Final Rule Technical Support Document, chapter 3 at page 330, Nov. 22, 2016, <https://www.regulations.gov/document?D=EERE-2014-BT-STD-0021-0029>.

agency the authority to do so. If an existing standard proves to adversely impact any “performance-related feature” that has utility to the consumer (such as raising the cycle times from one hour to two), DOE can devise a new efficiency standard set so as to restore that feature.³ The agency’s refusal to do so is the subject of pending federal litigation brought by 13 state attorneys general and for which CEI and FreedomWorks have filed an amicus curiae brief.⁴

Stoves and the Larger War on Natural Gas

Every bit as bad for consumers as DOE’s proposed dishwasher rule is the one targeting stoves. And, as was discussed before this subcommittee during the debate over HR 1640, the Save Our Gas Stoves Act, stoves have gotten caught up in the Biden Administration’s climate change-inspired war on natural gas.⁵

While all of DOE’s proposed appliance rules are problematic enough to warrant congressional oversight, of particular concern are the proposed standards for appliances that come in both natural gas and electric versions. This includes stoves (as well as furnaces and water heaters, which are also the subject of pending rulemakings). The reason is that the Biden administration has, as part of its climate agenda, targeted the residential use of natural gas in favor of electrifying everything, and it is using DOE efficiency standards to give electric appliances an advantage over gas versions.⁶

³ 42 U.S.C. §6295(q).

⁴ Brief Amicus Curiae of the Competitive Enterprise Institute and FreedomWorks, in *Louisiana v. United States Department of Energy*, United States Court of Appeals for the Fifth Circuit, No. 22-60146, July 9, 2022, https://cei.org/legal_brief/cei-files-brief-of-amici-curiae-in-louisiana-v-department-of-energy/.

⁴ 88 FR 32,526.

⁵ Mark Krebs and Tom Tanton, “Gas Stoves: The Beloved Blue Flame is Just Better,” MasterResource, February 14, 2023, <https://www.masterresource.org/krebs-mark/gas-stove-get-real/>.

⁶ White House Fact Sheet, “New Innovation Agenda Will Electrify Homes, Businesses, and Transportation to Lower Energy Bills and Achieve Climate Goals,” December 14, 2022, <https://www.whitehouse.gov/ostp/news->

Although DOE's rules for such appliances are supposed to be fuel neutral, the proposal for stoves disproportionately burdens gas ones over electric. Doing so harms the 40 percent of homeowners who prefer gas stoves because they have a number of features electric stoves lack. Many of those features are jeopardized by the proposed rule, as we explained in a comment to the agency that was signed by 30 free market organizations.⁷ To give one example, the proposed standard may necessitate eliminating the very high heat settings on gas stoves needed for such tasks as searing and stir-frying. In contrast, the proposed efficiency changes for electric stoves are relatively easy to meet and are unlikely to impact cooking performance.

I would add that just as dishwasher regulations have been a significant time waster for homeowners, the same so may be true of the proposed stove rule. One trade association estimates that compliant gas stoves would mean longer times to boil a pot of water, and could add up to nearly one wasted day over the course of a year.⁸ Apparently, efficiency with regard to our time is not a factor the agency pays attention to when setting these standards. EPCA forbids the agency from setting standards that compromise product performance and features, but the agency appears to be moving ahead anyway.

Against this very real risk of diminished gas stove quality is an agency-estimated energy savings of a paltry \$1.51 per year, and a subsequent addendum from DOE suggests it may be even less than that.⁹ Indeed, even the agency now estimates that 35 percent of new stove buyers

[updates/2022/12/14/fact-sheet-new-innovation-agenda-will-electrify-homes-businesses-and-transportation-to-lower-energy-bills-and-achieve-climate-goals/](https://www.energy.gov/updates/2022/12/14/fact-sheet-new-innovation-agenda-will-electrify-homes-businesses-and-transportation-to-lower-energy-bills-and-achieve-climate-goals/).

⁷Coalition Comment to Department of Energy on Energy Conservation Standards for Consumer Conventional Cooking Products, April 17, 2023, <https://cei.org/wp-content/uploads/2023/04/DOE-Stoves-4-17-2023-1.pdf>.

⁸ Association of Home Appliance Manufacturers (AHAM), Comments on DOE's SNOPR on Energy Conservation Standards for Residential Conventional Cooking Products; Docket No. EERE-2014-BT-STD-0005; RIN 1904-AD15, April 17, 2023, https://freebeacon.com/wp-content/uploads/2023/05/EERE-2014-BT-STD-0005-2285_attachment_1.pdf.

⁹ Department of Energy, Energy Conservation Program: Energy Conservation Standards for Consumer Conventional Cooking Products, Notice of Data Availability and Request for Comment, 88 FR 50,810 (August 2, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-08-02/pdf/2023-16475.pdf>.

would suffer net costs under the proposed rule, and that number is likely an understatement given the tendency of regulatory agencies to inflate the benefits and downplay the costs of efficiency standards.¹⁰

And, as with all of its proposed appliance rules, DOE calculates the claimed climate benefits. I would note that the agency quantified the dollar value these climate benefits but declined to quantify the projected temperature change from the proposed rule. According to an analysis conducted by Dr. Kevin Dayaratna of the Heritage Foundation and included in our regulatory comment, the agency's projected avoidance of 19.6 million metric tons of CO₂ would result in temperature mitigation of approximately 0.0004°C by 2050 and 0.0009°C by 2100.

Beyond cooking performance, there is an additional advantage that gas stoves have over electric versions that is of increasing importance to homeowners, and that is the ability to operate during a blackout. There is a documented and growing risk to electric reliability across much of the nation, especially as baseload generation sources like coal and natural gas are being retired and replaced by wind and other intermittent renewable sources.¹¹ In other words, the same Biden Administration climate agenda that favors electric stoves over gas is also making dependence on electric stoves increasingly risky. As a result, the ability to cook during an electricity outage (and to use the stove as an emergency heat source when electric-dependent heat is unavailable) gives

¹⁰ See, Hunt Allcott, Michael Greenstone, "Is There an Efficiency Gap?" *Journal of Economic Perspectives*, Winter 2012, <https://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.26.1.3>; Sebastien Houde, Erica Myers, "Are Consumers Attentive to Local Energy Costs? Evidence From The Appliance Market," *National Bureau of Economic Research*, February 2019, <https://www.nber.org/papers/w25591>.

¹¹ See, North American Electric Reliability Corporation (NERC), "2023 ERO Reliability Risk Priorities Report," August 17, 2023, https://www.nerc.com/comm/RISC/Related%20Files%20DL/RISC_ERO_Priorities_Report_2023_Board_Approved_Aug_17_2023.pdf; PJM, "PJM Energy Transition: Resource Retirements, Replacements and Risks, February 23, 2023, <https://www.pjm.com/-/media/library/reports-notice/special-reports/2023/energytransition-in-pjm-resource-retirements-replacements-and-risks.ashx>.

gas stoves an important advantage over electric ones, and is one more reason why fully-featured gas stoves must be preserved under EPCA.

Overall, DOE's proposed stove rule underscores how such regulations serve to reduce consumer choice. Any homeowner who wants an electric stove will always be free to choose one, with or without government regulations. The only thing the proposed rule does is skew the market towards electric by making gas stoves less desirable. More consumer choice is always better than less consumer choice, and DOE's appliance regulations, without exception, lead to less consumer choice.

Air Conditioners - Burdened by Multiple Regulations

DOE efficiency regulations alone have inflicted plenty of damage by adversely impacting the quality, value, and choice of covered appliances, but some appliances are simultaneously subject to other agencies' rules as well. This is particularly so for air conditioners, which are heavily regulated by the Environmental Protection Agency (EPA) while also the target of DOE efficiency standards.

DOE's latest regulation for central air conditioners took effect on January 1st of this year and coincided with a noticeable jump in the cost of a new system, according to several installers. The agency has also finalized new efficiency standards for room air conditioners (window units). At the same time, all air conditioners must comply with the American Innovation and Manufacturing Act of 2020 (AIM Act), which is now being implemented by EPA.¹² The AIM Act restricts hydrofluorocarbons (HFCs), the widely-used class of refrigerants, on the grounds that they contribute to climate change. The production limits on HFCs have led to

¹² Coalition Comment to the Environmental Protection Agency on the Implementation of the AIM Act, July 6, 2021, <https://cei.org/wp-content/uploads/2021/07/AIMAct-NOPR-Comments-6-2021.pdf>

higher costs to repair existing systems, and will also necessitate the redesign new systems to use alternative refrigerants.¹³ For example, the price of the HFC blend used in most existing residential air conditioners has already increased several-fold, and the cost of recharging a system that has lost refrigerant from a leak is hundreds of dollars more than before the AIM Act. The refrigerant quotas get substantially tighter in 2024, so we could see a big jump in prices by next summer.

Thus, homeowners face the growing cumulative burden of DOE and EPA rules on air conditioning costs, and the impact could be substantial in the years ahead. If I were to guess what appliance will be the subject to the next big consumer backlash like the one we saw this year over stove regulations, I would say air conditioners next summer.

Solutions

Most major home appliances have been subjected to four, five, or even six rounds of successively tighter DOE efficiency standards over the decades, and we have long reached the point of diminishing or negative returns for consumers. Beyond raising the purchase price and compromising the quality of appliances, these rules constrain consumer choice.

At this point, it makes sense to sunset the appliance efficiency standards program altogether. The program is nothing more than a solution in search of a problem, and ending it has absolutely no downside for consumers. Those who want extra efficient appliances – or those who have bought into the hype that electric appliances are environmentally superior to gas

¹³ Coalition Comment to the Environmental Protection Agency on AIM Act Restrictions on the Use of Certain Hydrofluorocarbons, January 30, 2023, <https://cei.org/wp-content/uploads/2023/01/AIM-ACT-COMMENT-1-30-2023-1.pdf>.

versions – are free to choose them, with or without government interference. Federal regulations only serve to force the politically-correct option on every consumer, whether they like it or not.

Short of full repeal, Congress could limit DOE’s role so that the agency can only make recommendations regarding new appliance regulations, but that the House and Senate would be required to affirmatively vote on them before they become law.

If Congress chooses to keep the current program in place, it should make several important changes to it. This includes raising the bar on new standards to prevent the ones most likely to be more trouble than they are worth, and simplifying the process of revisiting and changing existing standards that have proven harmful to consumers. I would note that a recent National Academy of Sciences report recommended DOE make more of an effort to scrutinize past appliance efficiency regulations in order to learn from mistakes and to require the agency to show that existing standards are inadequate before setting tighter ones.¹⁴

And perhaps most importantly, Congress should clarify that the appliance standards program cannot be used as a climate policy tool, and that any environmental agenda cannot take precedence over the best interests of consumers.

Several of these reforms are included in HR 8402. This bill would help restore common sense to a program that has drifted far from its pro-consumer purpose. Thank you.

¹⁴ Susan Dudley, “When Regulating an Appliance ... Follow the Science!” RealClearEnergy, January 19,2022, https://www.realclearpolicy.com/2022/01/19/when_regulating_an_appliance_follow_the_science_812579.html.