

House Subcommittee on Energy
2123 Rayburn House Office Building
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Legislative Hearing to Strengthen Energy Infrastructure, Efficiency, and Financing

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Chairman Rush, Ranking Member Upton, 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, a non-profit, non-partisan, public policy institute committed to advancing the principles of free markets and limited government. Over the years we have participated in numerous rulemakings conducted by the Department of Energy (DOE), mostly regarding energy and water efficiency standards for home appliances, and usually on the side of cautioning against regulatory overreach.¹ Before that I had the privilege of serving on this committee from 2011 to 2018, where I worked on several DOE issues.

I would like to use my time to address three of the DOE programs that are the subject of some of the bills being discussed today – appliance efficiency standards, weatherization assistance, and loans and loan guarantees. If there is a common theme it is that these programs

¹ See, Competitive Enterprise Institute, Comments Regarding the Department of Energy’s Fiscal 2004 Priorities for the Appliance Standards Rulemaking Process, August 14, 2003, <http://cei.org/sites/default/files/Ben%20Lieberman%20-%20Comments%20Regarding%20DOE%20E2%80%99s%20FY%202004%20Priorities%20for%20the%20Appliance%20Standards%20Rulemaking%20Process.pdf>; Competitive Enterprise Institute, Petition for Rulemaking on a New Product Class of Fast Dishwashers, March 18, 2018, <https://cei.org/sites/default/files/DOE%20Dishwasher%20Petition.pdf>; Comments of the Competitive Enterprise Institute to the Department of Energy, Test Procedure for Showerheads, Notice of Proposed Rulemaking, September 20, 2021, https://cei.org/regulatory_comments/comments-to-doe-regarding-water-use-limits-for-showers/.

were created to address market failures that have proven to be considerably overstated, and thus the benefits from government involvement are minor and not worth the burden to consumers and taxpayers.

I would like to start by making a few general points about DOE's appliance efficiency programs, which have been around since the 1970s. First, I believe there is good reason to question the ongoing need for the program, since appliance efficiency improves with or without government intervention. It is important to recognize that for virtually every regulated appliance, there are numerous models on the market that go above and beyond the current federal standards, and there are Federal Trade Commission energy-use labels and the Energy Star program that make it easy for consumers who want ultra-efficient appliances to identify them. But new standards only serve to force that choice on everyone, whether the extra costs make sense for them or not. One size does not fit all, and we all know our own individual circumstances and preferences better than any DOE regulator.

Not every homeowner comes out ahead with efficiency standards. We have seen standards that raised the purchase price of appliances more than many consumers will ever earn back in the form of energy or water savings.² In addition, some standards have compromised product performance, such as those that led to dishwashers taking multiple hours to finish a load.

It turns out that homeowners are smarter shoppers than the government gives them credit for and that regulations add very little if anything.³ And at this point, most major home

² See, Department of Energy, Energy Conservation Program for Consumer Products: Central Air Conditioners and Heat Pumps Energy Conservation Standards, 66 FR 7,170 (January 22, 2001), <https://www.federalregister.gov/documents/2001/01/22/01-1790/energy-conservation-program-for-consumer-products-central-air-conditioners-and-heat-pumps-energy> (Table V.13).

³ See, Hunt Allcott et al., "Measuring The Welfare Effects Of Residential Energy Efficiency Programs, National Bureau of Economic Research, May 2017, <https://www.nber.org/papers/w23386>.

appliances have been subjected to three, four, five, or even six rounds of successively tighter standards, and the risk of diminishing or even negative marginal returns is greater than ever.

I am particularly concerned that these DOE efficiency programs are now being hijacked in pursuit of the climate change agenda, with potentially adverse consequences for consumers. As we see with the recently proposed residential furnace rule, social cost of carbon is now being used as a thumb on the scale in favor of new rounds of more stringent standards that threaten higher costs and shift the focus towards environmental goals rather than what is best for consumers.⁴ Especially troubling, and again something we see in the proposed furnace rule, is the effort to use these standards to eliminate the option of natural gas appliances, even though they are the best choice for many consumers since natural gas is cheaper than electricity.⁵ Simply put, it is not the role of government to dictate choices and tell homeowners what they can and cannot have in their homes. By the same token, I would oppose provisions in HR 7962 mandating demand response capability in residential water heaters, when many homeowners do not want this feature and in fact some would strongly object to it. We need to respect consumer choice, and this measure does not. Now I do support other provisions in the same bill that would expand the range of available water heaters, but demand response, and particularly mandated demand response, is a very problematic new direction for this program with potentially serious consequences. Demand response is also something that moves us away from the original purpose of the appliance standards program and is yet another example of mission creep towards climate policy.

⁴ Department of Energy, Energy Conservation Standards for Residential Furnaces, (June 13, 2022), <https://www.energy.gov/sites/default/files/2022-06/res-furnaces-ecs-nopr.pdf>.

⁵ Department of Energy, Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy, 87 FR 12,681 (March 7, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-03-07/pdf/2022-04765.pdf>.

With regard to two other DOE programs that are the subject today's legislative hearing, weatherization and loan programs, I just don't believe we are getting very much bang for the buck. In particular, the weatherization program is one in which economists and others have questioned whether the expenditures exceed the benefits.⁶ As it turns out, most homeowners take reasonable steps on their own to prevent wasting energy, and thus the marginal benefit of government programs is limited. In addition, with so much federal funds already allocated to weatherization programs, starting with the big spending bill during the December 2020 lame duck and expanded further in the infrastructure package, I think we are already overspending on weatherization and therefore HR 7947 is difficult to justify.

Similarly, the DOE loan and loan guarantee programs are based on the premise that there are market failures in the form of promising energy ideas and projects that can't attract private capital and thus need federal help to fill the void, but the track record shows that many of these loan and loan guarantee recipients were projects that never panned out. For example, I was on the committee not too long ago when cellulosic ethanol was the next big thing and the recipient of loan guarantees, but as is too often the case it turned out to be a boondoggle. That is what taxpayers typically get with these DOE loan and loan guarantee programs.

I would like to conclude by emphasizing what I think is an obvious point, and that is that the best thing Congress can do right now to save consumers money on their energy bills is not demand response water heater mandates or free weather stripping or more DOE loans – it is to get these energy prices down. Gasoline has gotten most of the attention, but natural gas and electricity and propane are up as well, and unnecessarily so. I was working for this committee

⁶ See, Meredith Fowlie, et al., "Do Energy Efficiency Investments Deliver? Evidence From The Weatherization Assistance Program," National Bureau of Economic Research, July 2015, <https://www.nber.org/papers/w21331>.

when fears of America running out of oil and natural gas gave way to the incredible shale revolution, but now we are seeing that revolution neutralized by federal policies blocking domestic energy production and infrastructure. It is time to put energy affordability first and that can be done by once again unleashing American energy. To the extent we do want to make changes to DOE programs, the focus should be on reining in the regulatory reach and strengthening the consumer and taxpayer protections in the law. Thank you.