

**House Committee on Oversight and Accountability
Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs**

**“Consumer Choice on the Backburner: Examining the Biden Administration’s Regulatory
Assault on Americans’ Gas Stoves”
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Summary

- The Department of Energy’s proposed regulations for stoves are part of a larger Biden administration anti-natural gas agenda, despite the abundance and affordability of natural gas.
- This agenda prioritizes climate change policy over the interests of consumers.
- The proposed rule would adversely impact gas stove features, violate the consumer protections in the law, and should be withdrawn.
- Congress should scrutinize other pending DOE appliance rulemakings, including furnaces, clothes washers, and dishwashers.

Introduction

Chair Fallon, Ranking Member Bush, and members of this Subcommittee, thank you for the opportunity to testify today on an issue few if any of us thought would get this much attention when the year began – stoves.

My name is Ben Lieberman and I am a Senior Fellow at the Competitive Enterprise Institute (CEI), a non-profit, 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 such as the first-ever proposed rule for stoves at issue here.

My April 17, 2023 coalition comment to the agency critical of its gas stove proposal, which was signed by 30 other free market organizations, is included with this testimony.¹ Prior to joining CEI in 2018, I was a staff member on the House Committee on Energy and Commerce, where I also worked on DOE appliance regulations, although it was mainly other appliances and not stoves that were the focus of the Committee’s attention at the time.

My regulatory comment to the agency on stoves focuses on the underlying statute, the Energy Policy and Conservation Act of 1975 (EPCA), from which DOE derives its authority to regulate

¹ Coalition 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>.

appliances. Contrary to some descriptions, EPCA does not take an “efficiency at all cost” approach to appliance regulations. In fact, the statute contains a number of provisions to protect consumers from excessively stringent standards that may do more harm than good. As I will discuss below, several of these consumer protections have been ignored by the agency in its proposed rule on stoves. But first, I would like to provide some important context, as the stove rule is part of a much larger assault on natural gas being conducted by the Biden administration in the name of fighting climate change.

Stoves and the Larger War on Natural Gas

Natural gas stoves are currently the preferred choice of 40 percent of American households. While no single regulatory proposal or policy measure under consideration is going to eliminate them, the cumulative impact of many measures can come close, and that is what is going on regarding the residential use of natural gas in stoves and other appliances.

Immediately upon taking office in January of 2021, the Biden Administration both established climate change as its overriding priority and made aggressive DOE appliance regulations an important part of it.² That agenda is now in full swing. Since the start of 2023 alone, the agency has proposed new standards for clothes washers, room air conditioners, dishwashers, and refrigerators, along with stoves. Each of these proposed rules includes a lengthy agency analysis of the claimed climate benefits, based on calculations of reduced energy use and thus lower greenhouse gas emissions from electric generating plants.

While all of these proposed appliance rules are problematic enough to warrant congressional oversight, worst of all are the proposed standards for appliances that come in both natural gas and electric versions. This includes stoves (as well as furnaces, which are also the subject of a pending rulemaking). The reason is that the Biden administration has essentially declared war on the residential use of natural gas in favor of electrifying everything, and it is using efficiency standards to disproportionately target gas versions over electric ones.³ Thus, while all of these appliance efficiency standards have gotten caught up in the climate agenda, the ones that can use gas have been the most heavily targeted.

The ways the proposed rule tilts the playing field against gas stoves in favor of electric ones will be discussed below, but first it is worth highlighting the extent of the Biden administration’s “whole of government” approach to climate change and the breadth of its war on the residential natural gas use as a major component of it. For starters, it is worth noting that DOE is not even the only agency going after gas stoves. The Consumer Product Safety Commission (CPSC) is also targeting them with an ongoing investigation into their safety. The public comment period

² Executive Order 14008, “Tackling the Climate Crisis at Home and Abroad,” January 27, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-ontackling-the-climate-crisis-at-home-and-abroad/>; Department of Energy, “Climate Change,” <https://www.energy.gov/climate-change>.

³ 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-updates/2022/12/14/fact-sheet-new-innovation-agenda-will-electrify-homes-businesses-and-transportation-to-lower-energy-bills-and-achieve-climate-goals/>.

for CPSC just ended May 8th. The end result of CPSC's efforts is unlikely to be good news for gas stove users and consumer choice.

Of course, consumers cannot use gas appliances if their residence doesn't have a natural gas hookup, and as we know the state of New York and dozens of municipalities are imposing such bans on new construction. Now, the Inflation Reduction Act is supporting these efforts with federal funding to assist localities to change their building codes to discourage gas. There are also funds to subsidize builders of public housing to forego natural gas hookups and make them electricity only.

The Inflation Reduction Act also provides for an \$840 rebate for the purchase of a qualifying electric stove, but nothing for the purchase of a gas stove. Since most major stove manufacturers produce both gas and electric versions, one wonders if they will still produce both when one gets such a taxpayer-funded edge over the other.

Upstream of the end user, there is also a war on America's abundance of natural gas, and that war threatens affordability. Even DOE admits that natural gas is three and one-half times cheaper than electricity on a per unit energy basis, which goes a long way toward explaining why so many homeowners prefer natural gas furnaces and water heaters as well as stoves.⁴ But current policies can erode this cost advantage. For example, the surplus of natural gas in regions like Appalachia means nothing to consumers if there isn't sufficient pipeline capacity to deliver it. Thanks in part to Biden administration policies, 2022 was the lowest year on record for interstate natural gas pipeline additions since the Energy Information Administration started keeping statistics in 1995.⁵ We also see the hostility of the administration towards new natural gas leasing on federal lands and offshore areas.⁶ Further, the Inflation Reduction Act has a new methane tax on oil and natural gas producers.⁷ Regulators are also pressuring banks not to lend to oil and gas companies, and the list goes on. The anti-gas agenda is all encompassing, the goal of which is to make natural gas less available and more expensive for Americans.

In sum, if DOE finalizes the stove rule as proposed, and all these other anti-natural gas policies are allowed to continue, they would certainly make gas stoves a much less viable choice for homeowners in the years ahead. It would be close to if not a ban, for all practical purposes.

DOE's Proposed Rule Harms Consumers and Violates the Law

Because DOE has no authority to regulate on the basis of climate, the agency has had to provide a legally-defensible reason for targeting gas stoves. So DOE is claiming its proposed rule

⁴ 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>.

⁵ U.S. Energy Information Administration, "The Least U.S. Interstate Pipeline Capacity On Record Was Added in 2022," March 2, 2023, <https://www.eia.gov/todayinenergy/detail.php?id=55699>.

⁶ Wall Street Journal, "Federal Oil Leases Slow to a Trickle," September 4, 2022. <https://www.wsj.com/articles/federal-oil-leases-slow-to-a-trickle-under-biden-11662230816>.

⁷ Congressional Research Service, "Inflation Reduction Act Methane Emissions Charge: In Brief," August 29, 2022, <https://crsreports.congress.gov/product/pdf/R/R47206>

provides benefits for consumers, but a closer look reveals that consumers will be worse off under it.

EPCA does not prioritize efficiency above all else in the standards-setting process. Instead, the statute contains a number of provisions protecting consumers from excessively stringent standards that may do more harm than good. Most relevant here is the provision in the law categorically prohibiting any new or amended standard if the Secretary finds, by a preponderance of evidence, that it is “likely to result in the unavailability in the United States . . . of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary’s finding.”⁸ [Hereinafter the “features provision.”] This provision prohibits setting an efficiency standard that would sacrifice any desired product characteristics.

The features provision has special relevance to rulemakings for appliances that come in both natural gas and electric versions, such as stoves. It explicitly prevents standards that tilt the balance in favor of one over the other if doing so harms any consumers. Here, the proposed rule disproportionately burdens gas stoves and jeopardizes some of the very features that have led many consumers to prefer them over electric stoves.

Natural gas stoves have garnered about 40 percent of the residential market, and they are the preferred choice of serious cooks because they have a number of attributes that electric stoves lack. The features provision requires that each such characteristic be preserved in substantially the same form, else the proposed rule violates the law. It is not within the agency’s discretion to decide whether a particular feature is important enough to warrant protection; if the feature was available in at least one model before a new standard is promulgated, it has to remain available afterwards. Here, there is more than the required preponderance of evidence to believe that this is not the case and that the proposed rule would lead to diminished gas stove choices and characteristics.

Perhaps no home appliance is subject to more subtle variation in use than stoves. No two dishes call for exactly the same cooking techniques and no two cooks pursue their task in exactly the same manner. And every aspect of the cooking experience is protected under EPCA. Of particular concern is the future availability of high input rate (HIR) burners that can provide as much as 20,000 Btus/hour for such tasks as stir-frying, searing, or heating up a large pot of water in a conveniently short time. The proposed rule would almost certainly limit gas stoves to only one such burner, though some currently-available models have more than one. It may also require that the maximum heat for the one HIR burner be reduced to considerably less than those currently available. At the same time the proposed rule jeopardizes the highest heat burners, it may also threaten the availability of smaller, low heat burners ideal for cooking tasks like simmering. Overall, the range of burner types and capabilities is likely to get narrowed, to the detriment of consumers.

Also at risk are the heavy and/or continuous (often cast iron) grates needed to safely handle very large pots and to easily shift them from one gas burner to another as may be required by some recipes. As with HIR burners, these heavier grates are a feature on several currently-offered gas stove models, and they are available because there are consumers who want them.

⁸ 42 U.S.C §6295(o)(4).

DOE has asserted that a number of currently-offered gas stove models would likely meet the proposed standard, and the rulemaking process has sparked considerable debate whether this is true. But in any event, this misses the point of the features provision; there has to be gas stove options available with all the desired characteristics that were on the market at the time of the rulemaking. And on this point the proposed rule falls short.

In addition to the features associated with cooking performance, having a stove that can operate during a blackout is also a protected feature. Beyond cooking, a gas stove can also be an emergency source of heat. This is a feature that is of increasing relevance to consumers, as there is a 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 and unreliable renewable sources.⁹ Quite arguably, the same Biden Administration climate agenda that favors electric stoves over gas is also making dependence on electric stoves increasingly problematic. In any event, the ability to cook during a blackout is a feature that gives gas stoves an advantage over electric ones, and is one more reason why fully featured gas stoves should remain available.

Along with the features provision, EPCA has another requirement precluding any new or amended standard “that will not result in significant conservation of energy...”¹⁰ This consumer protection prevents standards that risk being more trouble than they are worth. Unfortunately, the statute does not quantify significant conservation of energy, and a 2020 agency rule doing so has since been reversed. Nonetheless, the proposed rule saves so little energy that it fails any rational interpretation of this provision.

Average household energy use for cooking is low to begin with – less than \$35 per year for either electric or gas cooking.¹¹ Given the modest overall energy use from cooking, it is not surprising that the estimated savings from the proposed rule are quite small at about \$1.50 per year for a gas cooktop.¹² In retrospect, it is for good reason that the agency had previously declined to bother with an efficiency standard for cooking products.

Further, the insignificant direct energy savings for consumers cannot be buttressed by adding the agency’s claims of environmental and public health benefits, including climate benefits. The statute specifically defines “energy use” as “the quantity of energy directly consumed by a consumer product at point of use,” and this is the relevant definition from which energy savings should be assessed.¹³ Based on this definition as well as many other provisions throughout the

⁹ See, 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>.

¹⁰ 42 U.S.C. §6295(o)(3)(B).

¹¹ Energy Information Administration, “Thanksgiving Week: EIA Data Highlight How Energy is Used in the Kitchen,” November 18, 2018, <https://www.eia.gov/todayinenergy/detail.php?id=37552>.

¹² Department of Energy, “Technical Support Document: Energy Efficiency Program for Consumer Products and Commercial and Industrial Equipment: Consumer Conventional Cooking Products,” December 2022, (TSD), Table 8.3.6 and Section 8.2.2.5, (estimated energy savings of \$21.89 over an estimated 14.5 year life for a gas cooktop, or \$1.51 per year).

¹³ 42 U.S.C. §6291(4).

statute that focus on direct consumer impacts, the agency’s inclusion of “the need to confront the global climate crisis” as a factor in determining the significance of the energy savings is not appropriate and cannot rescue the proposed rule from insignificance.¹⁴

Conclusion

Consumers don’t benefit when the government interferes with their choices, and this certainly includes DOE’s proposed rule disproportionately targeting gas stoves over electric versions. Fortunately, the law puts the best interests of consumers above other considerations, including climate activism. For these reasons, the proposed rule should be withdrawn, along with the rest of the administration’s anti-consumer war on natural gas.

¹⁴ Department of Energy, Energy Conservation Standards for Consumer Conventional Cooking Products, Supplemental Notice of Proposed Rulemaking, 88 FR, 6,818, 6,833 (February 1, 2023).