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THE SURGE

BY THE COMPETITIVE ENTERPRISE INSTITUTE

Welcome to the second edition of CEI's "The Surge!"

This new biweekly publication is the successor to the Cooler Heads Digest. It is designed to provide you timely analysis and perspective on energy and environmental issues from CEI and like-minded organizations.

We will be archiving each edition of The Surge on the publication's own web site (coming soon) and in addition, each edition will be published on CEI's blog.

Best,

CEI's Center for Energy and Environment Team

CEI Special Briefing Series: Defending the Personal Energy Choices of Americans

Federal Energy Efficiency Requirements are Outdated and Should be Repealed

At CEI, we are extremely concerned about government restricting Americans from choosing everything from the cars we want to drive to the appliances that we want to use. That's why we are proactively doing something about it, including through the Defending the Personal Energy Choices of Americans Special Briefing Series.

In the second article of the series, Jack Spencer, a Senior Research Fellow at The Heritage Foundation, makes the case for why the 1975 Energy Policy and Conservation Act (EPCA), which established the appliance efficiency regulatory regime, is outdated. He explains:

> In justifying the policies that EPCA ultimately set in place, President Gerald Ford laid out three broad policy objectives. These included reducing oil imports, ending American vulnerability to economic disruption by foreign suppliers, and developing energy technology and resources to supply a significant share of the free world's energy needs.
>
> In each case, America has achieved President Ford's objectives.

Jack's policy recommendations for Congress are spot on:

> Congress should begin work to significantly curtail, if not completely repeal, EPCA's energy efficiency provisions.
>
> Like most regulations, federal bureaucrats have taken the authorities granted them by Congress through EPCA to expand their power far beyond what anyone intended. The time has come for policymakers to stop complaining about ridiculous efficiency regulations and finally do something about it.

Top of the Agenda

Subsidy to Help Power Plants is Being Used to Kill off Power Plants

When Congress extended the 45Q tax credit under the IRA, it chose to use it as a carrot to incentivize the use of CCS for power plants, not as a way to provide the EPA justification to kill off power plants through regulation.

Three days before he voted for the IRA, Senator Manchin wrote a letter to the president of the West Virginia Coal Association in which he touted the benefits that these specific subsidies would have for his state's coal plants, "The reality is I specifically ensured that the Inflation Reduction Act provides incentives that would benefit coal. That includes increasing the value of the 45Q CCUS tax credit…" But EPA using those subsidies as justification to kill off coal certainly doesn't benefit coal.

And even more powerful, Senator Manchin stated in the letter, "First off, let me assure you that I have not wavered in my advocacy for innovation over elimination." Yet the EPA is using the 45Q tax credit to justify elimination, contrary to what Senator Manchin intended.

CEI's Daren Bakst and Paige Lambermont argue that:

> Legislators should address the EPA's misapplication of the IRA subsidies. This is a policy reform that should get wide support, including from legislators who supported the expansion of the 45Q tax credit in the IRA. After all, if these legislators really want the tax credit to be about innovation and not elimination, then they need to block the EPA from using the 45Q tax credit as a way to kill off power plants.

In the Spotlight

CEQ Proposes to Transform NEPA

In recent comments to the White House Council on Environmental Quality (CEQ), 24 state attorneys general led by Iowa AG Breanna Bird warn that CEQ's July 31 proposed rule to revise National Environmental Policy Act (NEPA) implementing regulations would unlawfully "turn an informational, procedural, outcome-neutral statute into a transformative tool to shape our economy and society to the Administration's chosen policy goals."

CEI's Marlo Lewis submitted comments to CEQ making that same overarching point. The proposed rule is designed to advance the Biden administration's "whole-of-government approach to the climate crisis." And as Marlo points out regarding the proposed rule:

> There is the gratuitous reminder of the President's "whole-of-government" climate agenda, the unprecedented and heavy emphasis in an ostensibly procedural rulemaking on a single category of environmental impacts (i.e. "climate-related"), and the hints that permitting agencies should strive to select the "environmentally preferable alternative," especially with regard to climate change and "environmental justice."

Four Quick Points Regarding Climate Change

Here are some quick points about climate change that Marlo pointed out in his recent NEPA comments:

1) Global warming is not accelerating; rather, it has held steady over the past 44 years at 0.14°C per decade.

2) The average annual number of global climate-related deaths per decade has declined by 96% over the past century.

3) Factoring in the fourfold increase in global population since the 1920s, the average person's risk of dying from extreme weather has decreased by more than 99%.

4) Climate-related economic losses as a percentage of wealth exposed to extreme weather, floods, and droughts have declined almost fivefold globally since the 1980s.

A Bad September for Energy: Biden's War on Energy Continues with Restrictions on Oil and Gas Leases

This September was a busy anti-reliable energy month for the Biden administration as it took three aggressive steps:

1) The U.S. Department of the Interior (DOI) announced the cancellation of seven oil and gas leases in the Arctic National Wildlife Refuge that were issued by the Trump administration to the Alaska Industrial Development and Export Authority.

2) DOI released a new proposed rule that would limit oil and gas leasing in the National Petroleum Reserve-Alaska (NPR-A). The agency boasts that it "would establish an outright prohibition on any new leasing in 10.6 million acres, more than 40 percent of the NPR-A."

3) DOI released its five-year plan (2024-2029) for offshore oil and gas lease sales. In a press release, the agency stated, "The Proposed Final Program includes a maximum of three potential oil and gas lease sales – the fewest oil and gas lease sales in history.."

Germany's Energy Policy Provides an Important Lesson for the United States

The United States can learn a lot of lessons from other countries about what not to do when it comes to energy. Germany is an especially notable example.

Germany's energy transition policy, Energiewende, calls for the phaseout of all of the country's nuclear and coal generating units. The current coalition government in Germany oversaw the shuttering of the country's last three remaining nuclear power plants in April. At the time, it was clear that the country would need to do something to increase electrical capacity before the winter.

The flaws of this obviously short-sighted plan quickly became evident. In order to get through last winter, the coalition government extended the shutdown date of the three nuclear units from December 2022 to April 2023, and also used 1.9 gigawatt hours of reactivated coal power.

But winter is not a one-time affliction. So here we go again. For this winter, Germany will once again bring retired coal plants back online from October to March. Shuttering and reopening power plants as seasonal electrical demand changes is a senseless way to operate a grid. Last year, there were issues in restarting coal plants because many of their components had been packed away or sold.

There are sure to be similar issues as plants are brought back online starting this month. Restarting the country's nuclear units would be even more fraught, and is as of yet not being planned. From this, the United States should take the lesson that shutting down reliable electricity generation can have serious consequences for grid reliability.

Three Developments on the Appliance Efficiency Standards Front

CEI's Ben Lieberman has written about three recent developments connected to appliances:

1) Air Conditioners. On October 6th – the Friday before a 3-day weekend – EPA released a final rule targeting new central air conditioners made on or after January 1, 2025.

2) House members take action through appropriations. Several House members are seeking to use the appropriations process to defund the bureaucrats responsible for appliance rules.

Most of these proposed or recently finalized appliance rules are efficiency standards from the Department of Energy's (DOE) Office of Energy Efficiency and Renewable Energy (EERE). These activities will be funded under "H.R. 4394– Energy and Water Development and Related Agencies Appropriations Act," which is currently being debated by the House. And several members are essentially saying "no money, no more appliance regulations."

3) Furnaces. On September 29, the Department of Energy (DOE) finalized a costly new energy efficiency standard for furnaces. It is another win for climate change activists but a big loss for millions of homeowners.

Featuring our Friends

No, Electricity Markets are not Free Markets: A Q&A with Cato's Travis Fisher

Travis Fisher, director of Energy and Environmental Policy Studies at the Cato Institute, in a recent interview with CEI answered some key questions about electricity markets.

According to Travis, the top five reasons for why electricity markets are not free markets are 1) Economic regulations; 2) Environmental regulations; 3) Resource mandates; 4) Federal subsidies; and 5) Lack of choice regarding retail suppliers.

When asked about his recommendations for policymakers on how they can free up electricity markets, Travis pointed out:

> Given the problematic starting point at which we find ourselves, one of the most impactful ways to free up electricity markets is to reform the decidedly non-market features listed above [the five listed reasons]. Once those regulatory and policy intervention barriers are removed, policymakers should discuss ways to fully liberate electricity markets. Specifically, policymakers should allow the market process to devise alternatives to the current natural monopoly model. In my opinion, technological changes such as low-cost distributed energy resources and the "internet of things" have weakened the natural monopoly argument and enabled new ways of approaching competition in the electricity industry.

More from our Friends

A Summer of Forest Litigation, Hannah Downey, PERC

No, the Summer Weather Data Doesn't Amount to Climate Catastrophe, Roy Spencer and Kevin Dayaratna, Newsweek

Book Review: 'The Plague of Models,' Anthony J. Sadar, The Washington Times

The Plague of Models: How Computer Modeling Corrupted Environmental, Health, and Safety Regulations, Kenneth P. Green

Regulatory Tracker

The following are two important and current energy and environmental proposed rules:

Corporate Average Fuel Economy Standards for Passenger Cars and Light Trucks for Model Years 2027-2032 and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans for Model Years 2030-2035
Agency: National Highway Traffic Safety Administration (DOT)
Comment Deadline: October 16

Management and Protection of the National Petroleum Reserve in Alaska
Agency: Bureau of Land Management (DOI)
Comment Deadline: November 7