



DEPARTMENT OF ENERGY

10 CFR Part 430

EERE-2025-BT-DET-0002

RIN 1904-AF70

Energy Conservation Program: Proposed Withdrawal of Determination of Miscellaneous Gas Products as a Covered Consumer Product

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rule; proposed withdrawal of determination.

SUMMARY: As part of its implementation of the Executive Order, “Unleashing American Energy” (Jan. 20, 2025), the U.S. Department of Energy (“DOE”) is reviewing existing agency actions to ensure, among other things, that all regulatory requirements related to energy are grounded in clearly applicable law and that the American people’s freedom to choose from a variety of goods and appliances is not restricted. As a result of this review, DOE is proposing to withdraw its prior determination that miscellaneous gas products (“MGPs”), which are comprised of decorative hearths and outdoor heaters, qualify as covered products under Part A of Title III of the Energy Policy and Conservation Act, as amended (“EPCA”). After further consideration of the relevant statutory authority and available information, DOE is proposing to withdraw its determination that MGPs are covered products under EPCA for which DOE is authorized to establish test procedures and energy conservation standards.

DATES: Written comments, data, and information are requested and will be accepted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov* under docket number EERE-2025-BT-DET-0002. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2025-BT-DET-0002, by any of the following methods:

(1) *Email: MscGasProds2025DET0002@ee.doe.gov.* Include the docket number EERE-2025-BT-DET-0002 in the subject line of the message.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-1445. If possible, please submit all items on a compact disc (“CD”), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, *see* section V of this document.

Docket: The docket for this activity, which includes *Federal Register* notices, public meeting attendee lists and transcripts (if a public meeting is held), comments, and other supporting documents/materials, is available for review at *www.regulations.gov*. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2025-BT-DET-0002. The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section IV of this document for information on how to submit comments through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Ms. Julia Hegarty, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-5B, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 287-1445. Email: ApplianceStandardsQuestions@ee.doe.gov.

Mr. Matthew Schneider, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 586-4798. Email: Matthew.Schneider@hq.doe.gov.

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I. Introduction

The following section briefly discusses the statutory authority underlying this notice of proposed withdrawal of determination, as well as some of the relevant historical background related to the inclusion of MGPs as covered equipment under the Energy Policy and Conservation Act (“EPCA”), as amended.

A. Statutory Authority

EPCA¹ authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. Title III, Part B² of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency for certain consumer products, referred to generally as “covered products”.³ In addition to specifying a list of consumer products that are covered products, EPCA authorizes the Secretary of Energy to classify additional types of consumer products as covered products. EPCA defines a “consumer product” in relevant part as any article (other than an automobile) of a type—(A) which in operation consumes, or is designed to consume, energy; and (B) which, to any significant extent, is distributed in commerce for personal use or consumption by individuals; without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual.⁴ (42 U.S.C. 6291(a)(1)). For a given consumer product to be classified as a covered product, the Secretary must determine that: classifying the product as a covered product is necessary or appropriate to carry out the purposes of this chapter; and the average annual per-household energy use by products of such type is likely to exceed 100

¹ All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Pub. L. 116–260 (Dec. 27, 2020).

² For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A and is hereinafter referred to as such.

³ The enumerated list of covered products is at 42 U.S.C. 6292(a)(1)–(19).

⁴ As such, in considering the potential scope of coverage, DOE does not consider whether an individual product is distributed in commerce for residential or commercial use, but whether it is *of a type* of product distributed in commerce for residential use.

kilowatt-hours (“kWh”) (or its British thermal unit (“Btu”) equivalent) per year. (42 U.S.C. 6292(b)(1)).⁵

When deciding whether a consumer product should be classified as a covered product, DOE must first determine whether these criteria from 42 U.S.C. 6292(b)(1) are met. Once a determination is made, the Secretary may prescribe test procedures to measure the energy efficiency or energy use of such product. (42 U.S.C. 6293(a)(1)(B)). Furthermore, once a product is determined to be a covered product, the Secretary may set standards for such product, subject to the provisions in 42 U.S.C. 6295(o) and (p), provided that DOE determines that four additional criteria at 42 U.S.C. 6295(l) have been met. Specifically, 42 U.S.C. 6295(l) requires the Secretary to determine that: the average household energy use of the products has exceeded 150 kWh per household for a 12-month period; the aggregate 12-month energy use of the products has exceeded 4,200 gigawatt hours; substantial improvement in energy efficiency of products of such type is technologically feasible; and application of a labeling rule under 42 U.S.C. 6294 is unlikely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) that achieve the maximum energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(l)(1))

⁵ DOE has defined “household” to mean an entity consisting of either an individual, a family, or a group of unrelated individuals, who reside in a particular housing unit. For the purpose of this definition: Group quarters means living quarters that are occupied by an institutional group of 10 or more unrelated persons, such as a nursing home, military barracks, halfway house, college dormitory, fraternity or sorority house, convent, shelter, jail or correctional institution. Housing unit means a house, an apartment, a group of rooms, or a single room occupied as separate living quarters, but does not include group quarters. Separate living quarters means living quarters: (i) to which the occupants have access either directly from outside of the building, or through a common hall that is accessible to other living quarters and that does not go through someone else's living quarters, and (ii) occupied by one or more persons who live and eat separately from occupant(s) of other living quarters, if any, in the same building. 10 CFR 430.2.

B. Background

On February 7, 2022, DOE published a notice of proposed determination (“NOPD”) that proposed to determine coverage for MGPs, which are comprised of decorative hearths and outdoor heaters. 87 FR 6786 (“February 2022 NOPD”). The rulemaking history of MGPs as well as hearth products is discussed in the February 2022 NOPD. 87 FR 6786, 6787-6788.

After considering public comments, data, and information from interested parties submitted on the February 2022 NOPD, DOE finalized the coverage determination for MGPs. 87 FR 54330 (Sept. 6, 2022) (“September 2022 Determination”). As part of the determination, DOE adopted definitions of “miscellaneous gas products,” “decorative hearth product,” and “outdoor heater.”⁶

Concurrent with the determination process, DOE initiated an effort to evaluate the potential for energy conservation standards for MGPs by publishing a request for information. 87 FR 35925 (“June 2022 RFI”). The June 2022 RFI solicited information from the public to help DOE determine whether potential standards for miscellaneous gas products would result in significant energy savings and whether such standards would be technologically feasible and economically justified. Subsequently on November 17, 2022, DOE published a notice of data availability, presenting various data collected through the June 2022 RFI and seeking additional input from stakeholders before proceeding with an energy conservation standards rulemaking. 87 FR 68931. To date, DOE has not proposed energy conservation standards or test procedures for MGPs.

⁶ See 10 CFR 430.2.

II. General Discussion

Under EPCA, DOE may add consumer products to the list of covered products for which energy conservation standards can be established. *See* 42 U.S.C. 6292(a)(20). After coverage is determined, DOE may adopt standards and test procedures regulating such products, pursuant to the requirements set out in the statute. *See generally*, 42 U.S.C. 6293, 6295. The coverage determination procedures require DOE to conclude that a type of consumer product should be a “covered product,” meaning that “(1) classifying products of such type as covered products is necessary or appropriate to carry out the purposes of this chapter,” and “(2) average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (or its Btu equivalent) per year.” *Id.* at 42 U.S.C. 6292(b).

Fundamental to a coverage determination is the identification of a scope of coverage – *i.e.*, determining which type or types of articles comprise a covered product. *See* 42 U.S.C. 6292(b) (“The Secretary *may classify a type of consumer product* as a covered product”) (emphasis added). While requirements for establishing a scope of coverage are not specified in EPCA, it is clear that the function of a consumer product plays an essential role in determining which type or types of articles comprise a covered product. Under 42 U.S.C. 6295(o)(5), for example, DOE may set more than one energy conservation standard for covered products that serve more than one major function by setting one energy conservation standard for each major function. As a result, energy conservation standards are inextricably tied to the major function(s) of a covered product. For example, the major function of a central air conditioner is to provide cooling, and the energy conservation standard for central air conditioners, Seasonal Energy Efficiency Ratio 2 (“SEER2”), is a measure of cooling efficiency. Similarly, the energy conservation standard for consumer clothes dryers, Combined Energy Factor (“CEF”),

measures how many pounds of clothes can be dried per kilowatt-hour of energy consumed, *i.e.*, drying efficiency. And, while a specific covered product or equipment category can encompass a wide variety of products or equipment, *e.g.*, commercial refrigeration equipment, they all still share a major function, which identifies that grouping of products or equipment as a distinct *type*. A coverage determination must be premised on the finding that classifying a type of consumer product as a covered product is necessary or appropriate to carry out the purposes of EPCA. Far from necessary or appropriate, grouping products that do not share any major functions as a single type of covered product would run contrary to the purposes of EPCA.

The September 2022 Determination was a departure from this precedent. Miscellaneous gas products, as defined, encompass products that are used primarily for both aesthetic or decorative purposes, and products used primarily for heating. As noted above, in the September 2022 Determination, DOE defined “miscellaneous gas products” to include both outdoor heaters and decorative hearth products. “Outdoor heater” was further defined to mean a gas-fired appliance designed for use in outdoor spaces only, and which is designed to provide heat proximate to the unit. DOE defined “decorative hearth product” to mean a gas-fired appliance that—

- (1) Simulates a solid-fueled fireplace or presents a flame pattern;
- (2) Includes products designed for indoor use, outdoor use, or either indoor or outdoor use;
- (3) Is not for use with a thermostat;
- (4) For products designed for indoor use, is not designed to provide space heating to the space in which it is installed; and
- (5) For products designed for outdoor use, is not designed to provide heat proximate to the unit. 10 CFR 430.2.

It is clear from these definitions that outdoor heaters and decorative hearth products do not share any major functions that would allow for these products to be grouped together and regulated as a single *type* of consumer product. Indeed, in response to the February 2022 NOPD, DOE received several comments suggesting the scope of MGPs was too broad and that decorative hearths and outdoor heaters should be regulated separately. *See* 87 FR 54335-54336. In response to comments on the February 2022 NOPD, DOE concluded that outdoor heaters and decorative hearth products were “similar enough in function and operation that it is appropriate to group them together.” *Id.* at 87 FR 54336.

DOE has reevaluated its September 2022 Determination for MGPs and is now proposing to withdraw said determination as it tentatively concludes that outdoor heaters and decorative hearth products are not similar enough in function to be grouped together for the purposes of establishing a new type of covered product. It is clear from the definitions of “outdoor heater” and “decorative hearth” that these products do not share any major functions. Outdoor heaters are specifically designed to provide heat, while decorative hearth products are not designed to provide space heating (indoor) or heating proximate to the unit (outdoor). As a result, DOE has tentatively determined that MGPs, as defined in the September 2022 Determination, are not a “type of consumer product” for which DOE can establish coverage under 42 U.S.C. 6295(b)(1) and that as a result the coverage determination is not necessary or appropriate to carry out the purposes of statute.

III. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” as supplemented and reaffirmed by E.O. 13563, “Improving Regulation and Regulatory

Review, 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (“OIRA”) in the Office of Management and Budget (“OMB”) has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this final regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this proposed regulatory action does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (“IRFA”) and a final regulatory flexibility analysis (“FRFA”) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website (www.energy.gov/gc/office-general-counsel).

DOE reviewed this proposed withdrawal of a determination under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal does not establish test procedures or standards for MGPs and if adopted, DOE would no longer have the authority to consider adopting such measures. Therefore, DOE initially concludes that the impacts of the proposed determination would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed withdrawal of a determination, which proposed that MGPs do not meet the criteria for a covered product for which the Secretary may consider prescribing energy conservation standards pursuant to 42 U.S.C. 6295(o) and (p), imposes no new

information or record-keeping requirements. Accordingly, the OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969 (“NEPA”), DOE is analyzing this proposed determination in accordance with the National Environmental Policy Act (“NEPA”) and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include a categorical exclusion for rulemakings that are strictly procedural. 10 CFR part 1021, subpart D, appendix A6. DOE anticipates that this rulemaking qualifies for categorical exclusion A6 because it is a strictly procedural rulemaking and otherwise meets the requirements for application of a categorical exclusion. See 10 CFR 1021.410. DOE will complete its NEPA review before issuing the final determination.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed withdrawal of a determination and has tentatively determined that it would not have a substantial direct effects on the States, on the relationship

between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed determination. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed withdrawal of a determination meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Pub. L. 104-4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

DOE examined this proposed withdrawal of a determination according to UMRA and its statement of policy and determined that the proposed determination does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed withdrawal of a determination would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed withdrawal of a determination would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M-19-15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at:

www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf. DOE has reviewed this proposed withdrawal of a

determination under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed withdrawal of a determination, which does not amend or establish energy conservation standards for MGPs, is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Information Quality

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (“OSTP”), issued its Final Information Quality Bulletin for Peer

Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667.

In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.⁷ Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.⁸

⁷ The 2007 “Energy Conservation Standards Rulemaking Peer Review Report” is available at the following website: [energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0](https://www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0) (last accessed July 1, 2022).

⁸ The report is available at www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed withdrawal of a determination and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.”

IV. Public Participation

A. Submission of Comments

DOE will accept comments, data, and information regarding this notification of proposed determination no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The www.regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any

document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (“CBI”). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. With this instruction followed, the cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked “confidential” including all the information believed to be confidential, and one copy of the document marked “non-confidential” with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

B. Issues on Which DOE Seeks Comments

DOE welcomes comments on all aspects of this proposed determination. DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

Issue 1: DOE requests comment interested parties on whether withdrawing the coverage determination miscellaneous gas products as a covered product is consistent with the purposes of EPCA.

Issue 2: DOE seeks feedback from interested parties on the scope of coverage previously adopted for miscellaneous gas products, which included decorative hearth products and outdoor heaters, and whether such products share any major functions that could be the basis for establishing a new covered product encompassing both types of equipment.

DOE is also interested in receiving views concerning other relevant issues that participants believe would affect the tentative conclusions presented in this document.

After the expiration of the period for submitting written statements, DOE will consider all comments and additional information that is obtained from interested parties or through further analyses, and it may prepare a final withdrawal of the coverage determination for MGPs.

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this Notice of proposed rule; proposed withdrawal of determination.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, and Small businesses.

Signing Authority

This document of the Department of Energy was signed on March 5, 2025, by Louis Hrkman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on March 6, 2025.

Treena V. Garrett
Federal Register Liaison Officer,
U.S. Department of Energy

For the reasons set forth in the preamble, DOE proposes to amend part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, to read as set forth below:

PART 430 - ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for Part 430 continues to read as follows:

Authority: 42 U.S.C. 6291-6309; 28 U.S.C. 2461 note.

* * * * *

2. Section 430.2 is amended by removing the following definitions: “Decorative hearth product”, “Miscellaneous gas products”, and “Outdoor heater”.

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