

**Comments of APPLIANCE STANDARDS AWARENESS PROJECT and  
EARTHJUSTICE**

April 14, 2025

**Re: “Energy Conservation Program: Proposed Withdrawal of Determination of Miscellaneous Gas Products as a Covered Consumer Product,” 90 Fed. Reg. 11,908 (Mar. 13, 2025).**

**Docket No. EERE-2025-BT-DET-0002**

The Appliance Standards Awareness Project and Earthjustice submit the following comments on the U.S. Department of Energy’s (“DOE’s”) proposal to withdraw DOE’s determination that miscellaneous gas products are covered products under the Energy Policy and Conservation Act (“EPCA”).

We support the adoption of federal energy conservation standards for miscellaneous gas products. For example, a standard that disallows continuous (standing) pilot lights for decorative hearth products would be technologically feasible and economically justified and would deliver significant energy savings.<sup>1</sup> Similarly, performance standards for outdoor heaters merit further analysis to enable a determination whether they would also meet these criteria.<sup>2</sup>

However, if DOE has no plan to move forward with the adoption of energy conservation standards for miscellaneous gas products, we do not oppose DOE’s withdrawal of these products from coverage under EPCA. As a general matter, we do not support DOE maintaining federal coverage over products that are not subject to federal energy conservation standards.

Nevertheless, we note that the proposed action fails to grapple with the complexity of the overlapping market for the products at issue. For example, DOE has previously acknowledged that aesthetic values are an important part of the function of both decorative hearth products and outdoor heaters.<sup>3</sup> DOE’s proposed finding that decorative hearth products and outdoor heaters “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”<sup>4</sup> does not explain why DOE has changed its position and no longer believes aesthetic values are part of the function of outdoor heaters.

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<sup>1</sup> See Comments of Appliance Standards Awareness Project, et al., at 1 (July 14, 2022) (DOE Docket No. EERE-2022-BT-STD-0017-0010).

<sup>2</sup> See *id.* at 2.

<sup>3</sup> See 87 Fed. Reg. 35,925, 35,929 (June 14, 2022) (recognizing that that “the aesthetic nature of many outdoor heaters is an important part of the value they provide, with some designs featuring a prominent flame”); *see also* 87 Fed. Reg. 54,330, 54,336 (Sept. 6, 2022) (explaining that “Outdoor hearths and outdoor heaters are also similar in that they are gas-fired products that are used outdoors and may provide aesthetic value to consumers (in particular, outdoor hearths and outdoor heaters with visible flames may be considered substitute products for many consumers)”).

<sup>4</sup> 90 Fed. Reg. at 11,910.

Further, DOE's exclusive reliance on the function of a consumer product in determining which consumer products comprise a type of covered product ignores nuances in EPCA's own groupings of covered products and equipment into types. For example, EPCA names "electric motors and pumps" as a single type of covered equipment.<sup>5</sup> These products have functions that overlap just as decorative hearth products and outdoor heaters do, but electric motors also provide rotational mechanical energy to a wide array of applications beyond pumps. Similarly, EPCA groups battery chargers and external power supplies together under a single covered product heading, though the function of these products differs in all but the broadest sense of facilitating the energy use of other products.<sup>6</sup>

In conclusion, while we continue to believe that adopting energy conservation standards for miscellaneous gas products would achieve cost-effective energy savings and be a lawful exercise of DOE's discretion, we do not object to the proposed action. We instead urge DOE to prioritize the completion of rulemakings that are subject to deadlines under EPCA. In particular, we insist that DOE ensure federal energy conservation standards and test procedures remain up to date by adhering to the statutory schedule for reviews of these regulations.

Thank you for considering these comments.

Timothy Ballo  
Earthjustice  
tballo@earthjustice.org

Rachel Margolis  
Appliance Standards Awareness Project  
rmargolis@standardsasap.org

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<sup>5</sup> 42 U.S.C. § 6311(1)(A).

<sup>6</sup> 42 U.S.C. § 6295(u).