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DEPARTMENT OF ENERGY

10 CFR Part 430

EERE-2014-BT-STD-0005

RIN 1904-AD15

**Energy Conservation Program: Energy Conservation Standards for Consumer
Conventional Cooking Products**

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

ACTION: Notification of data availability (“NODA”).

SUMMARY: On February 1, 2023, the U.S. Department of Energy (“DOE”) published a supplemental notice of proposed rulemaking (“SNOPR”), in which DOE proposed new and amended energy conservation standards for consumer conventional cooking products. In this NODA, DOE is publishing additional data and information to clarify the analysis for conventional cooking tops. DOE requests comments, data, and information regarding the data.

DATES: The comment period for the SNOPR that published on February 1, 2023 (88 FR 6818), is still in effect. DOE will accept comments, data, and information regarding the SNOPR and this NODA on or before April 3, 2023.

ADDRESSES:

Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov*, under docket number EERE-2014-BT-STD-0005. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2014-BT-STD-0005, by any of the following methods:

Email: ConventionalCookingProducts2014STD0005@ee.doe.gov. Include the docket number EERE-2014-BT-STD-0005 in the subject line of the message.

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.

Hand Delivery/Courier: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L’Enfant Plaza, SW., 6th Floor, Washington, DC, 20024. 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 III of this document.

Docket: The docket for this activity, which includes *Federal Register* notices, 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-2014-BT-STD-0005. The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III of this document for information on how to submit comments through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Dr. Carl Shapiro, 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) 287-5649. Email: ApplianceStandardsQuestions@ee.doe.gov.

Ms. Celia Sher, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 287-6122. Email: Celia.Sher@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov*.

SUPPLEMENTARY INFORMATION:

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I. Background

The Energy Policy and Conservation Act, as amended (“EPCA”),¹ authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B² of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include consumer conventional cooking products, the subject of this NODA. (42 U.S.C. 6292(a)(10))

The currently applicable energy conservation standards for consumer conventional cooking products consist of a prescriptive prohibition on constant burning pilots for all gas cooking products (*i.e.*, gas cooking products both with or without an

¹ All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A–1 of EPCA.

² For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

electrical supply cord) manufactured on and after April 9, 2012. These standards are set forth in DOE’s regulations at Title 10 of the Code of Federal Regulations (“CFR”) part 430.32(j)(1)–(2).

Consumer conventional cooking products comprise conventional cooking tops and conventional ovens, as defined in 10 CFR 430.2. Representations of energy use or energy efficiency of conventional cooking tops made on or after February 20, 2023, must be based on results generated using the test procedure for conventional cooking products at 10 CFR part 430, subpart B, appendix I1 (“appendix I1”). There are currently no DOE test procedures for conventional ovens.

On February 1, 2023, DOE published a supplemental notice of proposed rulemaking (“February 2023 SNO PR”) proposing to establish new and amended standards for consumer conventional cooking products, consisting of maximum integrated annual energy consumption (“IAEC”) levels, in kilowatt-hours per year (“kWh/year”) for electric cooking tops and thousand British thermal units per year (“kBtu/year”) for gas cooking tops. 88 FR 6818–6820. Compliance with the new and amended standards would be required 3 years after the publication date of final rule, should DOE finalize the proposed standards. *Id.* The technical support document (“TSD”) that presented the methodology and results of the SNO PR analysis is available at: www.regulations.gov/document/EERE-2014-BT-STD-0005-0090.

DOE held a public meeting on January 31, 2023, to discuss and receive comments on the February 2023 SNO PR (“January 2023 public meeting”). During the January 2023

public meeting, interested parties raised questions regarding the timing of DOE’s cooking top testing, the current market availability of tested models, the existence of temperature-limiting controls on the tested electric open (coil) cooking tops, and the percentage of gas cooking tops currently available on the market that would meet the proposed standards as presented in DOE’s analysis, among other questions. Although DOE provided verbal responses to these questions during the public meeting, upon further consideration, DOE believes that additional explanation regarding these topics would better assist interested parties in reviewing the analysis presented in the February 2023 SNO PR. In addition, following the January 2023 public meeting, the Association of Home Appliance Manufacturers (“AHAM”) submitted a comment³ requesting that DOE share more complete data regarding the gas and electric cooking top test sample presented in the February 2023 SNO PR.

This NODA provides additional information to clarify the analysis for gas cooking tops. In response to other questions raised during the January 2023 public meeting and in AHAM’s request, DOE is also providing further data on the gas and electric cooking top test sample used for the February 2023 SNO PR analysis in an attachment to this NODA, available in the docket for this rulemaking.⁴

In accordance with EPCA, when establishing standards, DOE may not prescribe an amended or new standard if DOE finds (and publishes such finding) that interested persons have established by a preponderance of the evidence that the standard is likely to

³ Available at www.regulations.gov/comment/EERE-2014-BT-STD-0005-0127.

⁴ Available at www.regulations.gov/docket/EERE-2014-BT-STD-0005/document.

result in the unavailability in the United States in any covered product type (or class) 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 such finding. (42 U.S.C. 6295(o)(4)) To satisfy this requirement, DOE conducts a “screening analysis” as part of its rulemaking process, as set forth in DOE’s regulations at sections 6(b)(2)–(3) and 7(b) of 10 CFR part 430, subpart C, appendix A (“appendix A”).⁵ One of the criteria of the screening analysis is to eliminate from consideration any design options that would adversely impact product utility or product availability.⁶ Therefore, when DOE identifies potential efficiency levels for products (*i.e.*, efficiency levels which DOE may consider as the basis for a new or amended standard), DOE may not consider as design options certain features that may save energy but that might also adversely impact consumer utility.

As with most consumer products, gas cooking tops comprise a wide range of models with varying features and characteristics (*e.g.*, various burner input ratings, sealed versus open burner types, cast iron versus steel grate materials, continuous versus non-continuous grate configurations, *etc.*) Of particular relevance to this NODA, are gas

⁵ Section 6(b)(2) specifies that during the pre-NOPR phase of the rulemaking process, DOE will typically develop a list of design options for consideration. Initially, the candidate design options will encompass all those technologies considered to be technologically feasible. Following the development of this initial list of design options, DOE will review each design option based on the factors described in paragraph (6)(b)(3) of appendix A and the policies stated in section 7 of appendix A. The reasons for eliminating or retaining any design option at this stage of the process will be fully documented and published as part of the NOPR and as appropriate for a given rule, in the pre-NOPR documents. The technologically feasible design options that are not eliminated in this screening will be considered further in the engineering analysis described in paragraph (6)(c) of appendix A.

⁶ Section 7(b)(3) of appendix A states that if a technology is determined to have significant adverse impact on the utility of the product/equipment to subgroups of consumers, or result in the unavailability of any covered product type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the U.S. at the time, it will not be considered further.

cooking tops with high input rate (“HIR”) burners (which DOE defined in the February 2023 SNO PR as burners with input rates greater than or equal to 14,000 British thermal units per hour (“Btu/h”)) and continuous cast-iron grates. In the February 2023 SNO PR, DOE did not consider any efficiency levels that could not be achieved by gas cooking tops with HIR burners and continuous cast-iron grates because DOE is aware that some consumers derive utility from these features. 88 FR 6818, 6845. (*See* section II of this document for additional discussion of the consumer utility of these features.) In this NODA, DOE is addressing the questions raised by commenters regarding the percentage of all gas cooking tops currently available on the market that would meet the proposed standards—because this market share was not explicitly stated in the February 2023 SNO PR—by clarifying that DOE has tentatively determined that gas cooking tops without these features, such as gas cooking tops with steel grates, non-continuous grates, and/or burners with input rates less than 14,000 Btu/h—many of which are entry-level models—would also be able to meet the efficiency levels described in the February 2023 SNO PR and therefore would not be impacted by the proposed standard, if finalized. The following paragraphs describe these clarifications in more detail.

II. Discussion

In determining the maximum technologically feasible efficiency level for gas cooking tops in the February 2023 SNO PR, DOE evaluated the technology options used in gas cooking tops to achieve higher efficiencies to ascertain whether they meet the

criteria for consideration as design options for achieving potential standard levels (*i.e.*, “screening criteria”), as set forth in sections 6(b)(3) and 7(b) of appendix A.⁷

As discussed in section IV.C.1.a.i of the February 2023 SNO PR (88 FR 6818, 6845) and chapter 5 of the SNO PR TSD, for the gas cooking tops product class, DOE recognizes that HIR burners provide unique consumer utility and allow consumers to perform high heat cooking activities, such as searing and stir-frying. DOE is also aware that some consumers derive utility from continuous cast-iron grates, such as the ability to use heavy pans, or to shift cookware between burners without needing to lift them. In the February 2023 SNO PR, DOE screened out any optimized burner and grate designs that could reduce consumer utility associated with these features by only including in its analysis gas cooking tops that include at least one HIR burner and continuous cast-iron grates. 88 FR 6818, 6842. As a result, DOE did not consider any efficiency levels that are not already achieved by models on the current market with HIR burners and continuous cast-iron grates. Rather, DOE defined the efficiency levels for gas cooking tops such that all efficiency levels are achievable with continuous cast-iron grates and at least one HIR burner.

For gas cooking tops, DOE defined three efficiency levels (“ELs”) in the February 2023 SNO PR as follows:

- Baseline: 1,775 kBtu/year

⁷ The screening criteria include the following: (1) technological feasibility; (2) practicability to manufacturer, install, and service; (3) impacts on product utility or product availability; (4) adverse impacts on health or safety; and (5) unique-pathway proprietary technologies.

- EL 1: 1,440 kBtu/year
- EL 2: 1,204 kBtu/year

88 FR 6818, 6844–6846.

In the February 2023 SNOPR, DOE tentatively determined all three of these efficiency levels to be achievable by gas cooking tops with continuous cast-iron grates and at least one HIR burner. *Id.* at 6845. DOE used this analytical approach to ensure that the utility provided by these features can be maintained for those consumers that value them at each of the considered efficiency levels.

DOE is aware that gas cooking products exist on the market with efficiencies higher than the EL 2 level that DOE defined, but do not include HIR burners or continuous cast-iron grates. DOE’s testing included three such gas cooking tops representing a range of manufacturers, brands, and burner/grate designs that do not include both HIR burners and continuous cast-iron grates. DOE believes that these three units are representative of the types of gas cooking tops excluded from the analysis. Table II.1 presents the characteristics of each of these units. Table II.2 presents the test results for each of these units, including the measured active mode annual energy consumption (“AEC”), annual combined low power mode energy consumption (“ETLP”), and IAEC. Since these products had been screened out from the analysis, DOE did not present these testing results in the February 2023 SNOPR or the SNOPR TSD, nor included them in the engineering analysis.

Table II.1 Characteristics of Tested Gas Cooking Tops Excluded from the SNOPR Engineering Analysis

Test Unit	Product Configuration	Burner Input Ratings (Btu/h)	Burner Type	Grate Material	Marketed Style	Does Display Include a Clock? (Y/N)
A	Standalone Cooking Top	4×9,000	Open	Steel	Residential	N
B	Standalone Cooking Top	3,900; 2×5,900; 9,800; 13,000	Sealed	Cast iron	Residential	N
C	Standalone Cooking Top	5,000; 2×9,100; 10,500	Sealed	Steel	Residential	N

Table II.2 Measured Annual Energy Consumption of Tested Gas Cooking Tops Excluded from the SNOPR Engineering Analysis

Test Unit	AEC (kBtu/year)	ETLP (kWh/year)	IAEC (kBtu/year)
A	983	0	983
B	951	0	951
C	1041	0	1041

DOE observes that these gas cooking tops all achieved efficiencies significantly higher than (*i.e.*, IAEC values lower than) EL 2, defined for gas cooking tops as 1,204 kBtu/year. From these testing results, DOE estimates that the portion of the market consisting of gas cooking tops without HIR burners and continuous cast-iron grates would all meet EL 2.

DOE presented a table in the SNOPR TSD that included DOE’s estimate of the current market share of gas cooking tops that meet each efficiency level under consideration, which reflected the exclusion of higher-efficiency products that DOE had screened out (*i.e.*, excluded products that do not have at least one HIR burner and

continuous cast-iron grates). (See Table 8.2.43 in chapter 8 of the SNO PR TSD). This table indicates that, among the models not screened out of the analysis, 4 percent currently achieve EL 2. Based on its testing results and model counts of the burner/grate configurations of gas cooking top models currently available on the websites of major U.S. retailers, DOE estimates that the products that were screened out of the engineering analysis represent over 40 percent of the market. Together with the models included in the engineering analysis, DOE estimates that nearly half of the total gas cooking top market currently achieves EL 2 and therefore would not be impacted by the proposed standard, if finalized. The remaining portion of the total market is distributed equally between the baseline and EL 1, as indicated in Table 8.2.43 in chapter 8 of the SNO PR TSD.

DOE requests comment on these estimates for the no-new-standards case efficiency distribution of gas cooking products. In particular, DOE requests comment on its estimate that currently available gas cooking tops representing nearly half of the market would already meet the standards at EL 2 that were proposed in the February 2023 SNO PR, and therefore would not be impacted by the proposed standard, if finalized. DOE welcomes additional data and information regarding the efficiency of gas and electric cooking tops as measured by appendix I1, particularly gas cooking tops without HIR burners and/or continuous cast-iron grates. DOE additionally requests comment on the use of model-based market percentages to estimate conventional cooking product market share by efficiency level and invites stakeholders to provide shipments-based market share data.

III. Public Participation

DOE will accept comments, data, and information regarding this document, but 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* webpage 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 itself 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. 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, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail 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. 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. If you submit via postal mail or hand delivery/courier,

please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (“faxes”) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, 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’s 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).

Signing Authority

This document of the Department of Energy was signed on February 16, 2023, by Dr. Geraldine Richmond, Under Secretary for Science and Innovation, 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 February 16, 2023.

X Dr. Richmond  Digitally signed by Dr. Geraldine Richmond
Date: 2023.02.16 17:12:48 -05'00'

Dr. Geraldine Richmond
Under Secretary for Science and Innovation