

announced along with the prices announced in § 1000.53(b);

\* \* \* \* \*

(g) For the months of January 2005 through March 2005 for handlers who have submitted proof satisfactory to the market administrator to determine eligibility for reimbursement of transportation costs, subtract an amount equal to:

(1) The cost of transportation on loads of producer milk delivered or rerouted to a pool distributing plant which were delivered as a result of hurricanes Charley, Frances, Ivan and Jeanne.

(2) The cost of transportation on loads of producer milk delivered or rerouted to a pool supply plant that was then transferred to a pool distributing plant which were delivered as a result of hurricanes Charley, Frances, Ivan and Jeanne, and;

(3) The cost of transportation on loads of bulk milk delivered or rerouted to a pool distributing plant from a pool supply plant which were delivered as a result of hurricanes Charley, Frances, Ivan and Jeanne.

(4) The cost of transportation on loads of bulk milk delivered or rerouted to a pool distributing plant from another order plant which were delivered as a result of hurricanes Charley, Frances, Ivan and Jeanne.

(5) The cost of transportation on loads of bulk milk transferred or diverted to a plant regulated under another Federal order or to other nonpool plants which were delivered as a result of hurricanes Charley, Frances, Ivan and Jeanne.

(6) The total amount of payment to all handlers under this section shall be limited for each month to an amount determined by multiplying the total Class I producer milk for all handlers pursuant to § 1000.44(c) times \$0.04 per hundredweight.

(7) If the cost of transportation computed pursuant to paragraphs (g)(1) through (5) of this section exceeds the amount computed pursuant to paragraph (g)(6) of this section, the market administrator shall prorate such payments to each handler based on each handler's proportion of transportation costs submitted pursuant to paragraphs (g)(1) through (5) of this section.

Transportation costs submitted pursuant to paragraphs (g)(1) through (5) of this section which are not paid as a result of such a proration shall be included in each subsequent month's transportation costs submitted pursuant to paragraphs (g)(1) through (5) of this section until paid, or until the time period for such payments has concluded.

(8) The reimbursement of transportation costs pursuant to this

section shall be the actual demonstrated cost of such transportation of bulk milk delivered or rerouted as described in paragraphs (g)(1) through (5) of this section, or the miles of transportation on loads of bulk milk delivered or rerouted as described in paragraphs (g)(1) through (5) of this section multiplied by \$2.25 per loaded mile, whichever is less.

(9) For each handler, the reimbursement of transportation costs pursuant to paragraph (g) of this section for bulk milk delivered or rerouted as described in paragraphs (g)(1) through (5) of this section shall be reduced by the amount of payments received for such milk movements from the transportation credit balancing fund pursuant to § 1007.82.

\* \* \* \* \*

[This marketing agreement will not appear in the Code of Federal Regulations]

#### Marketing Agreement Regulating the Handling of Milk in Certain Marketing Areas

The parties hereto, in order to effectuate the declared policy of the Act, and in accordance with the rules of practice and procedure effective thereunder (7 CFR Part 900), desire to enter into this marketing agreement and do hereby agree that the provisions referred to in paragraph I hereof as augmented by the provisions specified in paragraph II hereof, shall be and are the provisions of this marketing agreement as if set out in full herein.

I. The findings and determinations, order relative to handling, and the provisions of §§ \_\_\_\_\_<sup>1</sup> to \_\_\_\_\_, all inclusive, of the order regulating the handling of milk in the (\_\_\_\_\_) Name of order (\_\_\_\_\_) marketing area (7 CFR Part \_\_\_\_\_<sup>2</sup>) which is annexed hereto; and

II. The following provisions: § \_\_\_\_\_<sup>3</sup> Record of milk handled and authorization to correct typographical errors.

(a) Record of milk handled. The undersigned certifies that he/she handled during the month of \_\_\_\_\_<sup>4</sup>, \_\_\_\_\_ hundredweight of milk covered by this marketing agreement.

(b) Authorization to correct typographical errors. The undersigned hereby authorizes the Deputy Administrator, or Acting Deputy Administrator, Dairy Programs, Agricultural Marketing Service, to correct any typographical errors which may have been made in this marketing agreement.

§ \_\_\_\_\_<sup>3</sup> Effective date. This marketing agreement shall become effective upon the execution of a counterpart hereof by the Secretary in accordance with Section 900.14(a) of the aforesaid rules of practice and procedure.

In Witness Whereof, The contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

Signature

By (Name) \_\_\_\_\_  
(Title) \_\_\_\_\_  
(Address) \_\_\_\_\_  
(Seal) \_\_\_\_\_  
Attest

<sup>1</sup> First and last sections of order.

<sup>2</sup> Appropriate Part number.

<sup>3</sup> Next consecutive section number.

<sup>4</sup> Appropriate representative period for the order.

[FR Doc. 04-25684 Filed 11-16-04; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

#### 10 CFR Part 430

[Docket No. EE-RM/STD-00-550]

RIN 1904-AB08

#### Energy Conservation Program for Commercial and Industrial Equipment: Energy Conservation Standards for Distribution Transformers

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

**ACTION:** Advance notice of proposed rulemaking; notice of availability of a supplemental technical support document appendix, and correction.

**SUMMARY:** In conjunction with an earlier advance notice of proposed rulemaking (ANOPR) to establish energy conservation standards for distribution transformers, DOE announces the availability of a supplemental technical support document (TSD) appendix. DOE has also identified a mislabeling found in the ANOPR.

**SUPPLEMENTARY INFORMATION:** As indicated at the public meeting on September 28, 2004, the Department of Energy (DOE) announces the availability of a supplemental TSD appendix entitled, "Appendix 8E: Average Transformer Design Properties from Life-Cycle Cost Model." This appendix provides information for the public to consider in connection with the July 29, 2004, ANOPR (69 FR 45375).

DOE has also identified a mislabeling found in the ANOPR on pages 45401 through 45404 and in Chapter 8 of the TSD on pages 8-38 through 8-43. On these pages, the text mistakenly labels some reported values as an "average manufacturer's selling price" when they should be referred to as the "consumer equipment cost before installation." This mislabeling does not impact the inputs, results, or any other aspect of the ANOPR.

Stakeholders can locate and download the TSD Chapter 8 as well as the newly posted supplemental Appendix 8E on the Distribution Transformers ANOPR TSD page: [http://www.eere.energy.gov/buildings/appliance\\_standards/commercial/dist\\_trans\\_tsd\\_061404.html](http://www.eere.energy.gov/buildings/appliance_standards/commercial/dist_trans_tsd_061404.html).

**FOR FURTHER INFORMATION CONTACT:** Sam Johnson, Project Manager, Energy Conservation Standards for Distribution Transformers; Docket No. EE-RM/STD-00-550; U.S. Department of Energy, Office of Building Technologies, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121; (202) 586-0854. E-mail: [Sam.Johnson@ee.doe.gov](mailto:Sam.Johnson@ee.doe.gov).

Thomas B. DePriest, Esq.; U.S. Department of Energy, Office of General Counsel, GC-72, 1000 Independence Avenue, SW., Washington, DC 20585-0121; (202) 586-9507. E-mail: [Thomas.DePriest@hq.doe.gov](mailto:Thomas.DePriest@hq.doe.gov).

Issued in Washington, DC on November 8, 2004.

**David K. Garman,**

*Assistant Secretary, Office of Energy Efficiency and Renewable Energy.*

[FR Doc. 04-25609 Filed 11-18-04; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-152549-03]

**RIN 1545-BC69**

#### Section 179 Elections; Hearing Cancellation

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Cancellation of notice of public hearing on proposed rulemaking.

**SUMMARY:** This document provides notice of cancellation of public hearing relating to the election to expense the cost of property subject to section 179.

**DATES:** The public hearing originally scheduled for November 30, 2004, at 10 a.m., is cancelled.

**FOR FURTHER INFORMATION CONTACT:** Robin R. Jones of the Publications and Regulations Branch, Legal Processing Division at (202) 622-7180 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking and notice of public hearing that appeared in the *Federal Register* on Wednesday, August 4, 2004 (69 FR 47043), announced that a public hearing was scheduled for November 30, 2004, at 10 a.m., in the

auditorium. The subject of the public hearing is proposed regulations under section 179 of the Internal Revenue Code. The public comment period for these regulations expired on November 2, 2004. Outlines of oral testimony was due on November 9, 2004.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit an outline of the topics to be addressed. As of Monday, November 15, 2004, no one has requested to speak. Therefore, the public hearing scheduled for November 30, 2004, is cancelled.

**Cynthia E. Grigsby,**

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. 04-25650 Filed 11-18-04; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### 30 CFR Parts 56, 57, 58, 70, 71, 72, 75 and 90

**RIN 1219-AA48**

#### Air Quality, Chemical Substances, and Respiratory Protection Standards

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The Mine Safety and Health Administration (MSHA) is withdrawing the remaining phases of its 1989 "Air Quality, Chemical Substances, and Respiratory Protection" proposed rule, and is providing further explanation of its September 26, 2002, *Federal Register* document regarding withdrawal of the proposed rule. MSHA's 2002 decision to withdraw the remaining phases of the proposed rule was based on adverse case law, a change in Agency priorities, and the staleness of the rulemaking record. Although the September 26, 2002, document was intended to withdraw the rule as of that date, the U.S. Court of Appeals for the District of Columbia Circuit found that the document provided inadequate explanation of the Agency's decision to terminate the rulemaking. The court ordered MSHA to either proceed with the Air Quality rulemaking or give a reasoned account of its decision not to do so. This document provides a reasoned account of MSHA's decision to terminate the rulemaking and to withdraw the remaining phases of the Air Quality rule.

**DATES:** The proposed rule published on August 29, 1989 (54 FR 35760) is withdrawn as of November 19, 2004.

#### FOR FURTHER INFORMATION CONTACT:

Marvin W. Nichols, Jr., Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Boulevard, Room 2313, Arlington, Virginia 22209-3939, [Nichols.Marvin@dol.gov](mailto:Nichols.Marvin@dol.gov), (202) 693-9440 (telephone), or (202) 693-9441 (facsimile). This document is available in alternative formats, such as large print and electronic format, and can be accessed on MSHA's Internet site, <http://www.msha.gov>, at the "Statutory and Regulatory Information" link.

#### SUPPLEMENTARY INFORMATION:

##### A. Rulemaking Background

On August 29, 1989, MSHA proposed a rule, 54 FR 35760, that would have, among other things, established permissible exposure limits (PELs) for substances that the Agency believed might adversely affect the health of miners; required control of exposure to such substances; prescribed methods and frequency of monitoring to evaluate exposure; and revised requirements for respiratory protection programs for metal and nonmetal mines and established similar requirements for coal mines. 54 FR 35760, 35761 (August 29, 1989). Additionally, the proposed rule included provisions addressing carcinogens, asbestos construction work, dangerous atmospheres, medical surveillance, prohibited areas for food and beverages, and abrasive blasting and drill dust control. Of the more than 600 chemical substances for which MSHA sought to establish PELs, 165 of those substances would have been regulated for the first time. Because of the scope and complexity of the Air Quality rule, MSHA divided the rulemaking provisions into three groups or "phases." The Agency set separate comment periods for each of the three groups and announced that it would hold three sets of public hearings, with each set addressing one group of the proposed rule's provisions.

The first group of provisions included abrasive blasting and drill dust control; dangerous atmospheres; exposure monitoring; prohibited areas for food and beverages; and PELs for nitrogen dioxide, nitric oxide, carbon monoxide, and sulfur dioxide. Two public hearings were held for this group of provisions, the first on June 4, 1990, in Denver, Colorado, and the second on June 7, 1990, in Coraopolis, Pennsylvania. The comment period for this group of provisions closed on March 2, 1990.