

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.

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.

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.

Issued in Washington, DC on November 8, 2004.

David K. Garman,

Assistant Secretary, Office of Energy Efficiency and Renewable Energy.

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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]

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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, (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.