

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

AMERICAN SOCIETY FOR TESTING AND  
MATERIALS d/b/a/ ASTM INTERNATIONAL;

NATIONAL FIRE PROTECTION  
ASSOCIATION, INC.; and

AMERICAN SOCIETY OF HEATING,  
REFRIGERATING, AND AIR-CONDITIONING  
ENGINEERS, INC.

Plaintiffs,

v.

PUBLIC.RESOURCE.ORG, INC.,

Defendant.

Case No. 1:13-cv-01215-TSC-DAR

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PUBLIC.RESOURCE.ORG, INC.,

Counterclaimant,

v.

AMERICAN SOCIETY FOR TESTING AND  
MATERIALS d/b/a/ ASTM INTERNATIONAL;

NATIONAL FIRE PROTECTION  
ASSOCIATION, INC.; and

AMERICAN SOCIETY OF HEATING,  
REFRIGERATING, AND AIR-CONDITIONING  
ENGINEERS, INC.

Counterdefendants.

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## **DECLARATION OF STEPHANIE REINICHE**

I, Stephanie Reiniche, declare as follows:

1. I am currently employed by the American Society of Heating, Refrigerating, and Air Conditioning Engineers (“ASHRAE”) as its Senior Manager of Standards. I have been employed by ASHRAE since 2003. Based on the information known to me as a result of the duties and responsibilities of my position, as well as information I have gathered from relevant ASHRAE personnel and staff, I have personal knowledge of the facts set forth herein and could and would testify competently thereto if called as a witness.

2. ASHRAE is a non-profit organization that operates with the mission of advancing the arts and sciences of heating, ventilating, air conditioning and refrigerating to serve humanity and promote a sustainable world. ASHRAE has leveraged its expertise in HVAC systems, as well as the expertise of its volunteer members, to develop and maintain over 100 consensus based standards. These standards, which are developed based needs in the industry, apply to a variety of fields within the building industry, such as energy efficiency, indoor air quality, refrigeration, and sustainability.

3. The specific ASHRAE standard that I understand to be at issue here, Standard 90.1, pertains to energy efficiency in commercial and high-rise residential buildings. The standard has a variety of uses, including use by builders as a best-practices guide to achieve greater energy efficiency in building projects (even when not required by law) and use as a guide for how to achieve LEED certification for new buildings (a private rating system for energy efficiency in new buildings administered by the U.S. Green Building Council). Though Standard 90.1 is sometimes incorporated into laws and government regulations, such incorporation is not the primary motivation for ASHRAE’s continued maintenance and updating of Standard 90.1. In fact, ASHRAE’s drafting and maintenance of Standard 90.1 dates back to the 1970s and significantly

predates Standard 90.1's widespread incorporation into federal laws or regulations—e.g., the most significant law referencing Standard 90.1, the Energy Policy Act, was not passed until 1992.

Additionally, ASHRAE maintains numerous standards that are not incorporated by reference into any law or regulation.

4. As part of my job responsibilities, I am one of the ASHRAE employees who oversees ASHRAE's standards-development process, including as that process relates to Standard 90.1. ASHRAE has a prescribed development process that is used to develop new standards and maintain existing standards. The process is designed to ensure compliance with American National Standards Institute ("ANSI") requirements and broad participation from a variety of materially interested parties.

5. Many ASHRAE standards, including 90.1, have existed for years but are considered to be in "continuous maintenance," which means that the standard is updated continuously via addenda with supplements being published every 18 months and all addenda being incorporated for a new version every three years using the same development and editing process.

6. ASHRAE's Standard 90.1 is developed with input from a project committee, which consists of a group of experts in the field that include but not limited to utilities representatives, engineers, manufacturers, trade organizations and architects that volunteer their time to work on Standard 90.1. The project committee members are selected by the Chair of the project committee and approved by ASHRAE's Standards Committee and subcommittee based on expertise in the field and in order to ensure a balanced representation of different interest groups.

7. As with ASHRAE's other standards, the 90.1 project committee is subject to procedural oversight from ASHRAE's Board of Directors, Standards Committee, and Technology Council. Members of the public may also participate in creating the standard through submitting public comments that will be considered by the project committee.

8. Substantive drafting and changes to Standard 90.1 happen through a consensus of the project committee and involve input from the many participants in the development process. The standard is not simply the work of individual members. For each proposed change to a standard or any new language that will be added to a standard, the project committee must vote to approve the change. Voting on changes to the standard may occur at an in-person meeting following discussion on the issue, by letter ballot, or a combination of the two. For a change to be approved, a majority of project committee members must vote in the affirmative and a two-thirds majority of those actually casting votes on that particular change must vote in the affirmative. Whether at an in-person meeting, by letter ballot, or a combination thereof, committee members who submit negative votes are given the opportunity to provide written comments explaining their decision. If the vote passes with one or more negative votes, the results are held in abeyance until the comments are transmitted to all eligible voters and they are given an opportunity to change their votes. Similarly, the committee also votes on how to respond to public comments on all revisions and new drafts of Standard 90.1. In the event that responses don't resolve the commenters on public review drafts the committee members are given an opportunity again to change their vote prior to the changes being published or to decide to revise the change and conduct another public review.

9. For each ASHRAE standard, ASHRAE assigns one or more staff liaisons to work with that standard's project committee. These staff liaisons report to me. For Standard 90.1, the liaison is Steve Ferguson. Mr. Ferguson, who has an engineering degree and is knowledgeable concerning HVAC systems, has worked as the staff liaison for Standard 90.1 since February 2005.

10. The job responsibilities of an ASHRAE staff liaison include facilitating meetings of the project committee, including attending meetings, keeping minutes, processing voting ballots, and often recording proposed changes to the Standard that are under discussion. The staff liaisons

also work together with the project committees to craft the appropriate wording of the standards by reviewing all proposed changes and drafts of the standards to make sure they are written clearly, in the proper format, comply with ANSI and ASHRAE requirements, and are both technically and editorially consistent. For instance, when a change is made, the liaison might determine that language in another part of the standard also needs to be changed to make the standard internally consistent, at which point the liaison would submit an addenda back to the project committee for further consideration. For each standard, the staff liaison also provides the project committee with the comments and proposals submitted by the public and any materially affected parties and subsequently reviews the project committee's formal responses to public comments and proposals to make sure they are clearly worded and in a proper format.

11. Every three years, when ASHRAE performs a roll-up of all proposed changes and edits to a standard under continuous maintenance, like Standard 90.1, the staff liaison and other ASHRAE staff will work with certain members of the project committee to perform a final review and edit of the new version of each standard to make sure that all proposed changes have been properly incorporated. Additionally, members of ASHRAE's staff are responsible for reviewing and updating certain language in ASHRAE standards that does not relate to the technical requirements of the standard, including the initial policy statement and notice of instructions for submitting a proposed change.

12. In my experience, members of the project committee, other ASHRAE members, and members of the public who contribute to ASHRAE standards fully understand and intend that ASHRAE will own the copyrights in the completed ASHRAE standards.

13. Anyone who contributes to Standard 90.1 as a project committee member, or by submitting a change proposal or public comment, is required by ASHRAE to execute an Application for Membership on an ASHRAE Committee or a Form for Commenting on a Public

Review Draft ASHRAE Standard, both of which contain an acknowledgment stating “I understand that I acquire no rights in publication of such documents in which my contributions or other similar analogous form are used.” A true and correct copy of a sample Form for Commenting on a Public Review Draft ASHRAE Standard is attached hereto as Exhibit 1, and a true and correct copy of a sample Application for Membership on an ASHRAE Committee is attached as Exhibit 2. All forms signed by commenters or committee membership on the 2004, 2007, and 2010 versions of Standard 90.1 would have contained substantially the same language as these forms.

14. As a general matter, ASHRAE does not permit alterations to the forms that must be signed by public commenters or committee members, and I am not aware of any contribution made to ASHRAE Standards 90.1-2004, 90.1-2007, or 90.1-2010, for which the contributor altered a standard ASHRAE form or refused to execute the form. To the extent any comment has been submitted and considered by the project committee without a properly executed form, it would be an exception to the general practices and requirements imposed by ASHRAE.

15. ASHRAE has valid copyright registrations for the versions of Standard 90.1 at issue in this case (i.e., the 2004, 2007, and 2010 versions). True and correct copies of those registrations are attached hereto as Exhibits 3, 4, and 5. Additionally, on each version of ASHRAE 90.1, it is ASHRAE’s practice to place a copyright notice prominently on the standard to alert members of the public that ASHRAE has copyrighted the standard. Members of the project committee are also aware of this practice and are thus aware that ASHRAE copyrights its standards, including each successive version of Standard 90.1. ASHRAE is not aware of any member of the 90.1 project committee or member of the public who commented on 90.1 who has contested ASHRAE’s copyright rights in the standard or claimed an ownership interest in any part of ASHRAE 90.1.

16. In addition to its copyrights, ASHRAE also holds several registered trademarks, including U.S. Registration Nos. 1,503,000 and 4,262,297, which protect the following logos:



True and correct copies of ASHRAE's registrations for these two marks are attached as Exhibits 6 and 7. Additionally, for mark number 1,503,000, which has been used in commerce since 1959, ASHRAE has filed a Section 15 declaration in support of the incontestability of its registration. ASHRAE's use of these marks in connection with its standards and other goods and services has been substantially continuous, and these marks, which are routinely affixed to ASHRAE's standards, have become associated with ASHRAE and its standards. ASHRAE considers these marks to be valuable assets and has developed substantial goodwill associated with these marks over the years.

17. Each time new versions of ASHRAE standards are developed, ASHRAE offers those standards for sale. Sales of the standards are an important piece of ASHRAE's yearly revenues. The primary purchasers and users of ASHRAE's standards include builders, architects, and heating, air-conditioning, and refrigeration manufacturers who use the standards in their businesses.

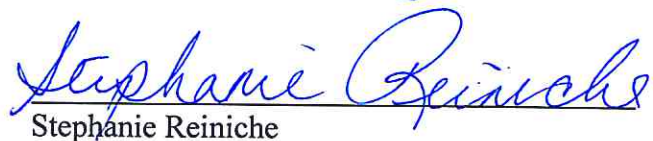
18. ASHRAE's pricing and access policies are generally tailored to afford broad access to the standards. Prices typically range from \$25 to \$120, with no standard costing more than \$200. The standards are priced on the basis of ASHRAE's costs and ASHRAE does not charge more for standards that have been incorporated into laws or regulations. ASHRAE also offers discounts for libraries, educational uses, government entities, and individuals or entities who purchase the standards on a subscription basis.

19. To further ensure broader access to the standards, ASHRAE also offers online read-only access to many of its standards—particularly those standards that have been incorporated into codes—on the ASHRAE website, available at <https://www.ashrae.org/standards-research--technology/standards--guidelines/other-ashrae-standards-referenced-in-code>. This portion of the ASHRAE website allows viewers to read ASHRAE standards, including the 2004, 2007, and 2010 versions of Standard 90.1. For certain standards, including Standard 90.1, users of the ASHRAE website can even perform keyword searches within the read-only versions of the documents.

20. ASHRAE is unaware of anyone, except the defendant in this matter, who has complained that the various channels of access ASHRAE provides to Standard 90.1 are insufficient. Additionally, ASHRAE is aware that Defendant has recently removed ASHRAE Standards 90.1-2004, 90.1-2007, and 90.1-2010 from its site at the suggestion of the Court in this matter. Since that occurred, I am not aware of any complaints ASHRAE has received regarding a perceived loss of access to these standards.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 19<sup>th</sup> day of November, 2015 at Atlanta, Georgia.

  
Stephanie Reiniche



# EXHIBIT 1



FORM FOR SUBMITTAL OF PROPOSED CHANGE TO AN ASHRAE STANDARD UNDER CONTINUOUS MAINTENANCE



NOTE: Use a separate form for each comment. Submittals (Microsoft Word preferred) may be attached to e-mail (preferred), submitted on a CD, or submitted in paper by mail or fax to ASHRAE, Manager of Standards, 1791 Tullie Circle, NE, Atlanta, GA 30329-2305. E-mail: change.proposal@ashrae.org. Fax: +1-404/321-5478.

1. Submitter:

Affiliation:

Address: City: State: Zip: Country:

Telephone: Fax: E-Mail:

I hereby grant the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (ASHRAE) the non-exclusive royalty rights, including non-exclusive rights in copyright, in my proposals. I understand that I acquire no rights in publication of the standard in which my proposals in this or other analogous form is used. I hereby attest that I have the authority and am empowered to grant this copyright release.

Submitter's signature: Date:

All electronic submittals must have the following statement completed:

I (insert name) through this electronic signature, hereby grant the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) the non-exclusive royalty rights, including non-exclusive rights in copyright, in my proposals. I understand that I acquire no rights in publication of the standard in which my proposals in this or other analogous form is used. I hereby attest that I have the authority and am empowered to grant this copyright release.

2. Number and year of standard:

3. Page number and clause (section), subclause, or paragraph number:

- 4. I propose to: [ ] Change to read as follows [ ] Delete and substitute as follows (check one) [ ] Add new text as follows [ ] Delete without substitution

Use underscores to show material to be added (added) and strike through material to be deleted (deleted). Use additional pages if needed.

5. Proposed change:

6. Reason and substantiation:

7. Will the proposed change increase the cost of engineering or construction? If yes, provide a brief explanation as to why the increase is justified.

- [ ] Check if additional pages are attached. Number of additional pages: [ ] Check if attachments or referenced materials cited in this proposal accompany this proposed change. Please verify that all attachments and references are relevant, current, and clearly labeled to avoid processing and review delays. Please list your attachments here:

Rev. 3-9-2007



## EXHIBIT 2



# ASHRAE Standard/Guideline Project Committee Application for Individual Membership



1. Name of Applicant Print or Type Name (Last, First, Middle Initial) below \_\_\_\_\_

Today's Date \_\_\_\_\_

ASHRAE Member/Non Member ID (ASHRAE Membership is not a requirement unless applying for Chair or Vice-Chair position) \_\_\_\_\_

\*Committee Position for Which You Are Applying: (see below) \_\_\_\_\_

\*VM-Project Committee Voting Member, SVM-Project Subcommittee Voting Member, NVM-Non-Voting Member, CON-Consultant, or Primary/Alternate Organizational Rep

2. I am applying for Individual Membership on the following ASHRAE Project Committee: (Please use a separate form for each committee.)

- SSPC 34 Designation and Safety Classification of Refrigerants
- SSPC 62.1 Ventilation for Acceptable Indoor Air Quality
- SSPC 62.2 Ventilation and Acceptable Indoor Air Quality in Low-Rise Residential Buildings
- SSPC 90.1 Energy Standard for Buildings Except Low-Rise Residential Buildings
- SSPC 90.2 Energy Efficient Design of Low-Rise Residential Buildings
- SSPC 161 Air Quality Within Commercial Aircraft
- SPC 189.1 Standard for the Design of High-Performance, Green Buildings Except Low-Rise Residential Buildings

If you are applying for a committee other than those listed above, please enter committee information below and use the Default Interest Categories listed in Section 4:

\_\_\_\_\_

3. Bio Report (In the "Member Central" section of the ASHRAE website) and the Potential Sources of Bias/Conflict of Interest form:

- Bio information current within a year from today. Date Bio information on ASHRAE's website was completed/updated: \_\_\_\_\_
- I have completed and signed the Potential Sources of Bias/Conflict of Interest form. Date form was completed/updated: \_\_\_\_\_

4. If elected as a member of the Project Committee, I would qualify in the following Interest Category (check one):  
(Descriptions of Interest Categories are on Page 2)

DEFAULT	SSPC 34	SSPC 62.1	SSPC 62.2	SSPC 90.1	SSPC 90.2	SSPC 161
<input type="checkbox"/> General Interest	<input type="checkbox"/> Consulting Engineer/ Contractor/Architect	<input type="checkbox"/> Design/Builders	<input type="checkbox"/> Design/Builders	<input type="checkbox"/> Compliance	<input type="checkbox"/> Compliance	<input type="checkbox"/> Flight Personnel
<input type="checkbox"/> Producer	<input type="checkbox"/> General Interest	<input type="checkbox"/> General Interest	<input type="checkbox"/> General Interest	<input type="checkbox"/> Designer	<input type="checkbox"/> General Interest	<input type="checkbox"/> General Interest
<input type="checkbox"/> User	<input type="checkbox"/> Producer/Vendor	<input type="checkbox"/> Manufacturer	<input type="checkbox"/> Manufacturer	<input type="checkbox"/> General Interest	<input type="checkbox"/> Industry	<input type="checkbox"/> Manufacturer
<input type="checkbox"/> Supplier (category may not be available-check with PC Chair)	<input type="checkbox"/> User	<input type="checkbox"/> Owner/Operator/ Occupant	<input type="checkbox"/> Owner/Operator/ Occupant	<input type="checkbox"/> Industry	<input type="checkbox"/> Producer	<input type="checkbox"/> Owner/Operator
			<input type="checkbox"/> User	<input type="checkbox"/> User	<input type="checkbox"/> Utility	<input type="checkbox"/> Passenger
				<input type="checkbox"/> Utility		

**SPC 189.1**

- Compliance
- Designer
- General Interest
- Industry
- User
- Utility

~PLEASE DO NOT ADD INTEREST CATEGORIES~

5. By signing below, I certify that:

*If elected as a member of any ASHRAE Standard or Guideline Project Committee or appointed as a consultant to such committee, I hereby grant the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) the non-exclusive, royalty-free rights, including nonexclusive, royalty rights in copyright, to any contributions I make to documents prepared by or for such committee for ASHRAE publication and I understand that I acquire no rights in publication of such documents in which my contributions or other similar analogous form are used. I hereby attest that I have the authority and I am empowered to grant this copyright release.*

**SIGNATURE** \_\_\_\_\_

Note: This form is not valid unless signed by Applicant

Submit Completed Form to: [Standards.Section@ashrae.org](mailto:Standards.Section@ashrae.org); Tel. (678) 539-1143; Fax (678) 539-2143

Last Revision: 10/09 - Page 1

Note: If applying for Organizational membership, please complete the Application for Project Committee Organizational Representative Membership with your information, and the Application for PC Organizational Membership with information on the organization you will represent.

## DEFINITIONS

**Interest:** the perspective of a member of a project committee, as judged by his or her present and past sources of income, fees, or reimbursements of related expenses, in the context of the purpose and scope of the project committee. The perspective may also be judged by the recorded views of the individual, or of any organization he/she is employed by or of which he/she is a member.

**Interest categories:** the principal (top) tier of interest classifications. For some standards projects, it may be appropriate to designate subcategories of one or more interest category.

## INTEREST CATEGORIES

**Compliance:** Persons primarily interested in compliance with the standard. A person in this category would make their living from developing regulations, enforcing the requirements of the standard, developing programs tied to the standard, or advocating the standard. Example members of this category would be building code officials, building code organizations, state energy offices, and other local, state, and federal officials.

**Designer:** A designer of buildings, building systems or subsystems (including envelope, HVAC, lighting). A person in this category would make their living from designing buildings and systems that are impacted by the standard. Example members of this category would be architects, design firms, consulting engineers, lighting designers and employees of energy consulting firms.

**Designer/Builder:** Those who provide building design and construction services, including consulting engineers, HVAC and general contractors, design/build contractors, or representatives of associations of these types of professionals.

**Flight Personnel:** Individuals who are employed by the airlines as part of the aircraft crew (pilots and flight attendants) or individuals employed by the airlines to maintain the aircraft, and the organizations that represent these individuals.

**General Interest:** Building regulatory officials or their representatives, researchers, educators, IAQ specialists, and others with expertise in the fields of ventilation and indoor air quality, as well as medical doctors, public health experts, industrial hygienists or representatives of associations of these types of professionals. In addition, this category is intended for those who have interests other than those described in the other categories. Example members of this category would be employees of research institutions, universities, nationally recognized testing laboratories, employees of energy advocacy groups, and others with a general interest in energy utilization in buildings.

**Industry:** Construction firms or manufacturers, producers, or distributors of products or systems that would be installed in buildings. A person in this category would make their living from constructing buildings or producing or distributing products impacted by this standard or representing groups of manufacturers impacted by this standard. Example members of this category would be contractors, manufacturing firms, assembly firms, distributors and wholesalers, and industry trade associations that represent these groups.

**Manufacturer:** Employees or representatives of manufacturers, distributors or trade associations of HVAC equipment, HVAC controls, and equipment designed to enhance indoor air quality (e.g. air cleaners). Also, individuals associated with products used in the construction of buildings (e.g., finishes, wall and floor coverings, wood products) and used within buildings by occupants (e.g., furniture and furnishings, tobacco products, appliances, office equipment).

**Owner/Operator/Occupant:** Employees or representatives of building owners/managers, building engineers, facility managers, and consultants who specialize in working in existing buildings (as opposed to those who design and construct new buildings), as well as representatives of building occupants.

**Passenger (As used by SPC 161):** Individuals who pay to ride on aircraft, and the organizations that represent these individuals.

**Producer:** Those directly concerned with the production or distribution of the product or service involved, including industry associations representing producers or distributors, or those receiving substantial support from a producer directly concerned.

**Supplier:** Employees of firms that provide maintenance services for HVAC systems owned by others. This would include engineers and consultants with a primary job scope of specifying or supervising maintenance of HVAC systems owned by others. It would especially include contractors and technicians who actually perform HVAC system services for hire. This group may also include representatives of associations the membership of which falls in this category.

**User:** Users of buildings and building systems and subsystems. A person in this category would make their living from owning or operating buildings. Example members of this category would be building owners and operators (private and governmental), tenants, and trade associations or organizations representing these groups.

**Utility:** Those who provide energy services to buildings impacted by this standard. A person in this category would make their living from providing energy services to a building impacted by this standard. Example members of this category would be electric, gas, steam, or other utility and trade associations or organizations representing these groups.

# EXHIBIT 3

# Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*

Register of Copyrights, United States of America

**Form TX**  
For a Nondramatic Literary Work  
UNITED STATES COPYRIGHT OFFICE

TX 6-091-449



EFFECTIVE DATE OF REGISTRATION

Dec. 30 2004  
Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1

**TITLE OF THIS WORK** ▼

ANSI/ASHRAE/IESNA Standard 90 1-2004, Energy Standard for Buildings Except Low-Rise Residential Buildings (I-P Edition)

**PREVIOUS OR ALTERNATIVE TITLES** ▼

ANSI/ASHRAE/IESNA Standard 90 1-2001, Energy Standard for Buildings Except Low-Rise Residential Buildings (I-P Edition)

**PUBLICATION AS A CONTRIBUTION** If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared **Title of Collective Work** ▼

If published in a periodical or serial give **Volume** ▼ **Number** ▼ **Issue Date** ▼ **On Pages** ▼

2

**NAME OF AUTHOR** ▼

a American Society of Heating, Refrigerating & Air-Conditioning Engrs

**DATES OF BIRTH AND DEATH**  
Year Born ▼ Year Died ▼

Was this contribution to the work a work made for hire?  
 Yes  
 No

**AUTHOR'S NATIONALITY OR DOMICILE**  
Name of Country

OR { Citizen of \_\_\_\_\_  
Domiciled in USA

**WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK**  
If the answer to either of these questions is "Yes," see detailed instructions

Anonymous?  Yes  No  
Pseudonymous?  Yes  No

**NOTE**

Under the law the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank

**NATURE OF AUTHORSHIP** Briefly describe nature of material created by this author in which copyright is claimed ▼  
Provide minimum requirements for energy-efficient design of bldgs except low-rise residential bldgs

**NAME OF AUTHOR** ▼

b

Was this contribution to the work a work made for hire?  
 Yes  
 No

**AUTHOR'S NATIONALITY OR DOMICILE**  
Name of Country

OR { Citizen of \_\_\_\_\_  
Domiciled in \_\_\_\_\_

**DATES OF BIRTH AND DEATH**  
Year Born ▼ Year Died ▼

**WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK**  
If the answer to either of these questions is "Yes," see detailed instructions

Anonymous?  Yes  No  
Pseudonymous?  Yes  No

**NATURE OF AUTHORSHIP** Briefly describe nature of material created by this author in which copyright is claimed ▼

**NAME OF AUTHOR** ▼

c

Was this contribution to the work a work made for hire?  
 Yes  
 No

**AUTHOR'S NATIONALITY OR DOMICILE**  
Name of Country

OR { Citizen of \_\_\_\_\_  
Domiciled in \_\_\_\_\_

**DATES OF BIRTH AND DEATH**  
Year Born ▼ Year Died ▼

**WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK**  
If the answer to either of these questions is "Yes," see detailed instructions

Anonymous?  Yes  No  
Pseudonymous?  Yes  No

**NATURE OF AUTHORSHIP** Briefly describe nature of material created by this author in which copyright is claimed ▼

3

a **YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED**  
2004  
This information must be given in all cases

b **DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK**  
Month ▶ December Day ▶ 21 Year ▶ 2004  
U.S.A. Nation

4

**COPYRIGHT CLAIMANT(S)** Name and address must be given even if the claimant is the same as the author given in space 2 ▼

American Society of Heating, Refrigerating & Air-Conditioning Engrs  
1791 Tullie Circle, NE  
Atlanta, GA 30329-2305

**TRANSFER** If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright ▼

APPLICATION RECEIVED

DEC 30 2004

ONE DEPOSIT RECEIVED

TWO DEPOSITS RECEIVED

DEC 30 2004

FUNDS RECEIVED

DO NOT WRITE HERE OFFICE USE ONLY

**MORE ON BACK** ▶ • Complete all applicable spaces (numbers 5-9) on the reverse side of this page  
• See detailed instructions • Sign the form at line 8

**DO NOT WRITE HERE**  
Page 1 of 2 pages



RECEIVED  
FEB 25 2005  
SPECIAL PUBS

EXAMINED BY FLM FORM TX  
CHECKED BY \_\_\_\_\_  
 CORRESPONDENCE  
Yes

FOR  
COPYRIGHT  
OFFICE  
USE  
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?  
 Yes  No If your answer is "Yes," why is another registration being sought? (Check appropriate box) ▼

5

- a  This is the first published edition of a work previously registered in unpublished form
  - b  This is the first application submitted by this author as copyright claimant
  - c  This is a changed version of the work, as shown by space 6 on this application
- If your answer is "Yes, give Previous Registration Number ▶ TX 5-662-106 Year of Registration ▶ 2001

DERIVATIVE WORK OR COMPILATION  
Preexisting Material Identify any preexisting work or works that this work is based on or incorporates ▼

a 6

Derivative Work Previously published material

See instructions before completing this space

Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed ▼

b

Editorial revisions and additional material

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account Name ▼ Account Number ▼

a 7

ASHRAE DA 019739

CORRESPONDENCE Give name and address to which correspondence about this application should be sent Name / Address / Apt / City / State / ZIP ▼

b

ASHRAE, ATTN Mildred Geshwiler  
1791 Tullie Circle, NE  
Atlanta, GA 30329-2305

Area code and daytime telephone number ▶ (678) 539-1154 Fax number ▶ (678) 539-2191  
Email ▶ mgeshwiler@ashrae.org

CERTIFICATION \* I, the undersigned, hereby certify that I am the  
Check only one ▶  author  
 other copyright claimant  
 owner of exclusive right(s)  
 authorized agent of ASHRAE  
Name of author or other copyright claimant, or owner of exclusive right(s) ▲

8

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date

Mildred Geshwiler Date ▶ December 28, 2004

Handwritten signature (X) ▼  
X Mildred Geshwiler

Certificate will be mailed in window envelope to this address

Name ▼  
ASHRAE, ATTN MILDRED GESHWILER  
Number/Street/Apt ▼  
1791 TULLIE CIRCLE, NE  
City/State/ZIP ▼  
ATLANTA, GA 30329-2305

9  
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ASHRAE0001597

# EXHIBIT 4

# Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*

Register of Copyrights, United States of America

Registration Number:

TX 6-842-936

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Effective date of registration:

February 29, 2008

## Title

**Title of Work:** ANSI/ASHRAE/IESNA Standard 90.1-2007, Energy Standard for Buildings Except Low-Rise Residential Buildings (I-P)

**Previous or Alternative Title:** ANSI/ASHRAE/IESNA Standard 90.1-2004, Energy Standard for Buildings Except Low-Rise Residential Buildings (I-P)

## Completion/ Publication

**Year of Completion:** 2008

**Date of 1st Publication:** January 9, 2008

**Nation of 1st Publication:** United States

## Author

■ **Author:** American Society of Heating, Refrigerating & Air-Conditioning Engrs

**Author Created:** Text and illustrations.

**Work made for hire:** Yes

**Domiciled in:** United States

## Copyright claimant

**Copyright Claimant:** American Society of Heating, Refrigerating & Air-Conditioning Engrs  
1791 Tullie Circle, NE, Atlanta, GA, 30329-2305

## Limitation of copyright claim

**Material excluded from this claim:** Derivative work, previously published material.

**Previously registered:** Yes

**Previous registration and year:** TX 6-091-449 2004

**Basis of current registration:** This is a changed version of the work.

**New material included in claim:** Editorial revisions and additional material.

## Certification

**Name:** Christina Helms

**Date:** February 19, 2008

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# EXHIBIT 5

# Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Maria A. Pallante*

Acting Register of Copyrights, United States of America

Registration Number  
**TX 7-299-602**

Effective date of  
registration:

December 13, 2010

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## Title

Title of Work: ANSI/ASHRAE/IES Standard 90.1-2010, Energy Standard for Buildings Except Low-Rise Residential Buildings (IP)

## Completion/Publication

Year of Completion: 2010

Date of 1st Publication: November 23, 2010

Nation of 1st Publication: United States

International Standard Number: ISSN 1041-2336

## Author

Author: American Society of Heating Refrigerating and Air-Conditioning Engineers Inc., dba ASHRAE  
Author Created: text, editing, Illustrations

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

## Copyright claimant

Copyright Claimant: American Society of Heating Refrigerating and Air-Conditioning Engineers Inc., dba ASHRAE  
1791 Tullie Circle, NE, Atlanta, GA, 30329-2305

## Limitation of copyright claim

Material excluded from this claim: text, Illustrations

Previous registration and year: TX 6-842-936 2008

TX 6-091449 2004

New material included in claim: text, editing

## Rights and Permissions

Organization Name: American Society of Heating Refrigerating and Air-Conditioning Engineers Inc.  
Name: Steve Comstock

Email: scomstock@ashrae.org

Telephone: 678-539-1102

Address: 1791 Tullie Circle, NE  
Atlanta, GA 30329-2305

**Certification**

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**Name:** Michshell Phillips

**Date:** December 9, 2010

**Applicant's Tracking Number:** 0201796533357958

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\*0000TX00072996020201\*

# EXHIBIT 6





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**Word Mark** ASHRAE  
**Goods and Services** IC 016. US 038. G & S: NEWSLETTER, PAMPHLETS, MANUALS AND MAGAZINES RELATING TO HEATING, REFRIGERATION AND AIR CONDITIONING INDUSTRY. FIRST USE: 19590100. FIRST USE IN COMMERCE: 19590100  
**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS  
**Design Search Code** 15.07.01 - Cog wheels; Gears  
 24.05.02 - Seals having some other shape  
 26.01.07 - Circles with a decorative border, including scalloped, ruffled and zig-zag edges  
 26.01.27 - Circles containing irregular exterior lining or elements not amounting to a decorative border  
 26.15.08 - Polygons comprised of letters, numerals or punctuation and letters, numerals or punctuation forming the perimeter of a polygon or bordering the perimeter of a polygon  
 26.15.20 - Polygons inside one another  
 26.15.21 - Polygons that are completely or partially shaded  
**Serial Number** 73708160  
**Filing Date** January 28, 1988  
**Current Basis** 1A  
**Original Filing Basis** 1A  
**Published for** June 14, 1988

**Opposition****Registration Number** 1503000**Registration Date** September 6, 1988**Owner** (REGISTRANT) AMERICAN SOCIETY OF HEATING, REFRIGERATING AND AIR-CONDITIONING ENGINEERS, INC. CORPORATION NEW YORK 1791 TULLIE CIRCLE, N.E. ATLANTA GEORGIA 30329**Attorney of Record** Emily B. Brown**Prior Registrations** 1470160**Type of Mark** TRADEMARK**Register** PRINCIPAL**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20080927.**Renewal** 1ST RENEWAL 20080927**Live/Dead Indicator** LIVE

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**Word Mark**      **ASHRAE**  
**Goods and Services**      IC 200. US 200. G & S: Indicating membership in an association of heating, refrigerating and air-conditioning engineers. FIRST USE: 20120121. FIRST USE IN COMMERCE: 20120121  
**Mark Drawing Code**      (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS  
**Design Search Code**      26.15.03 - Incomplete polygons and polygons made of broken or dotted lines; Polygons (incomplete); Polygons made with broken lines  
**Serial Number**      85429689  
**Filing Date**      September 22, 2011  
**Current Basis**      1A  
**Original Filing Basis**      1B  
**Published for Opposition**      March 6, 2012  
**Registration Number**      4262297  
**Registration Date**      December 18, 2012  
**Owner**      (REGISTRANT) American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. CORPORATION NEW YORK 1791 Tullie Circle, N.E. Atlanta GEORGIA 30329  
**Attorney of Record**      Emily B. Brown

**Prior Registrations** 1922697;2255210;3324653;3324654;AND OTHERS

**Registrations**

**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of the word "ASHRAE" superimposed horizontally breaking the left side of a hexagon.

**Type of Mark** COLLECTIVE MEMBERSHIP MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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