

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

<p>AMERICAN SOCIETY FOR TESTING AND MATERIALS d/b/a ASTM INTERNATIONAL;</p> <p>NATIONAL FIRE PROTECTION ASSOCIATION, INC.; and</p> <p>AMERICAN SOCIETY OF HEATING, REFRIGERATING, AND AIR CONDITIONING ENGINEERS,</p> <p style="text-align: center;">Plaintiffs/ Counter-Defendants,</p> <p>v.</p> <p>PUBLIC.RESOURCE.ORG, INC.,</p> <p style="text-align: center;">Defendant/ Counter-Plaintiff.</p>	<p>Case No. 1:13-cv-01215-TSC</p>
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DECLARATION OF JANE W. WISE

I, Jane W. Wise, hereby declare as follows:

1. I am over the age of 18. I am an associate with the law firm of Morgan, Lewis & Bockius LLP, which represents Plaintiff American Society for Testing and Materials d/b/a ASTM International (“ASTM”) in the above captioned matter. I have personal knowledge of the facts set forth herein and, if called upon to do so, I could and would testify competently thereto.

2. Attached as **Exhibit 174** are true and correct copies of excerpts from Defendants’ responses to interrogatories served by ASTM. Defendant did not serve supplemented responses to these interrogatories.

3. Attached as **Exhibit 175** is a table of the NFPA standards at issue in this case. The table includes a column listing the regulations or laws that PRO’s Exhibit 91 identified as incorporating each standard, as well as Exhibit 91’s “text of incorporation” column. In the

column labeled “NFPA’s response,” Plaintiffs have analyzed the federal regulation (if any) that PRO’s Exhibit 91 identifies.

4. Attached as **Exhibit 176** is a table of the ASTM standards at issue in this case with the quoted text from PRO’s Exhibit 90 where PRO identified the text of the C.F.R. it asserts incorporate a particular ASTM standard by reference. Where applicable, the attached table includes the year that the identified C.F.R. provision was amended, repealed, and/or revised.

5. Attached as **Exhibit 177** is a true and correct copy of a collection of printouts of the Internet Archive HTML versions of ASTM standards at issue, printed on December 6, 2019, that continue to display the ASTM logo, from the following websites:

<https://ia600607.us.archive.org/2/items/gov.law.astm.a572.1979/astm.a572.1979.html>;

<https://ia800905.us.archive.org/4/items/gov.law.astm.c518.1991/astm.c518.1991.html>;

<https://ia800700.us.archive.org/20/items/gov.law.astm.d86.2007/astm.d86.2007.html>;

<https://ia801309.us.archive.org/27/items/gov.law.astm.d129.1995/astm.d129.1995.html>;

<https://ia601606.us.archive.org/22/items/gov.law.astm.d975.2007/astm.d975.2007.html>;

<https://ia800306.us.archive.org/10/items/gov.law.astm.d1688.1995/astm.d1688.1995.html>;

<https://ia801307.us.archive.org/30/items/gov.law.astm.d2015.1996/astm.d2015.1996.html>;

<https://ia802706.us.archive.org/10/items/gov.law.astm.d2597.1994/astm.d2597.1994.html>;

<https://ia600608.us.archive.org/10/items/gov.law.astm.d3120.1996/astm.d3120.1996.html>;

<https://ia802705.us.archive.org/11/items/gov.law.astm.d4891.1989/astm.d4891.1989.html>; and

<https://ia600602.us.archive.org/22/items/gov.law.astm.d5257.1997/astm.d5257.1997.html>.

6. Attached as **Exhibit 178** is a true and correct copy of 46 C.F.R. § 56.01-1 (1997).

7. Attached as **Exhibit 179** is a true and correct copy of excerpts from the 1978 Annual Book of ASTM Standards Part 4.

8. Attached as **Exhibit 180** is a true and correct copy of a screenshot taken on December 20, 2019 from the website: https://catalog.nfpa.org/NFPA-30-Flammable-and-Combustible-Liquids-Code-P1164.aspx?order_src=D747&gclid=Cj0KCQiA_rfvBRCPARIsANIV66OZ-JtB8z9nAk1tGfWSauF2F0D1jinoH2nqQ58ZXi1YjKOIDOLbsjkaAqZFEALw_wcB.

9. Attached as **Exhibit 181** is a true and correct copy of an email sent by Kelly Klaus, counsel for NFPA, to Corynne McSherry and Andrew Bridges, dated August 3, 2018.

10. Attached as **Exhibit 182** is a true and correct copy of a screenshot taken on December 19, 2019 from the website: <https://law.resource.org/pub/us/cfr/manifest.us.html>.

11. Attached as **Exhibit 183** is a true and correct copy of Exhibit 3 to the deposition of Mia Marvelli.

12. Attached as **Exhibit 184** is a true and correct copy of Exhibit 7 to the deposition of Mia Marvelli.

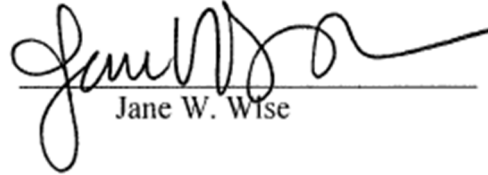
13. Attached as **Exhibit 185** is a true and correct copy of 40 C.F.R. § 80.47 (2017).

14. Attached as **Exhibit 186** is a table of the ASHRAE standards at issue in this case with the quoted text from PRO's Exhibit 89 where PRO identified the text of the C.F.R. it asserts incorporate a particular ASHRAE standard by reference. In the column labeled "ASHRAE's response," Plaintiffs have analyzed the federal regulation (if any) that PRO's Exhibit 89 identifies.

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I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct pursuant to 28 U.S.C. § 1746.

Dated: December 22, 2019



Jane W. Wise