automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95-619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100-12, the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100-357, and the Energy Policy Act of 1992 (EPACT), Public Law 102-486, 106 Stat. 2776, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including heat pumps. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. The test procedures appear at 10 CFR Part 430, Subpart B, Appendix M.

The Department amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process. 45 FR 64108. Thereafter, DOE further amended the appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823,

November 26, 1986.

The waiver process allows the Assistant Secretary to temporarily waive test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures, or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/ or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days, or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On July 18, 1994, Kool-Fire filed a Petition for Waiver and an Application for Interim Waiver regarding the heat pump tests. Additional information supporting the application was provided to DOE in a letter dated January 6, 1995. Kool-Fire's application seeks a Waiver from the DOE test of heating mode operation for its burnerassisted heat pumps because the current DOE test procedure does not address burner-assisted heat pumps. Kool-Fire also applied for an Interim Waiver, based on economic hardship which would be experienced if the Application for Interim Waiver is denied.

In Kool-Fire's Application for an Interim Waiver, the company addresses the economic hardship likely to result absent a favorable determination on its application. The company states that, lacking the Interim Waiver, Kool-Fire's rejection by certain State Energy Commissions has brought the manufacturing, marketing, and distribution of its products to a virtual stand-still. In its January 6, 1995 letter, Kool-Fire included a letter from its Oregon distributor claiming that lack of a DOE waiver for the company's product was directly responsible for the loss of a 180-plus unit order. Kool-Fire further stated that the inability to meet the DOE testing requirements is impacting 100 percent of the Kool-Fire product line.

The Department knows of no other company which manufactures a heat pump similar to the Kool-Fire burnerassisted system. However, the Department has granted a waiver to Enviro Master International from the need to determine a Heating Seasonal Performance Factor (HSPF) because its heat pumps could not be tested in the heating mode using the DOE test procedure. Based on the economic hardship which will be suffered by Kool-Fire if the Application for Interim Waiver is denied and the precedent established in granting a waiver from the requirement to test a heat pump in the heating mode when the product cannot be tested using the DOE test procedure, the Department is granting Kool-Fire an Interim Waiver from the requirement to test its lines of HC and LTH heat pumps in the heating mode. Pursuant to paragraph (e) of Section 430.27 of the Code of Federal Regulations Part 430, the following letter granting an Interim Waiver to Kool-Fire was issued.

Pursuant to paragraph (b) of 10 CFR Part 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety.

The Petition contains no confidential information. The Department solicits comments, data, and information respecting the Petition.

Issued in Washington, DC, February 22, 1995.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Department of Energy Washington, DC 20585 February 22, 1995.

Mr. J.N. Friedrich, President, Kool-Fire Division of Friedrich Corporation, 1930 Lincoln Way East, P.O. Box 643, Massillon, OH 44648–0643.

Dear Mr. Friedrich: This is in response to your letters of July 18, 1994 and January 6, 1995, submitting an Application for Interim Waiver and Petition for Waiver from the Department of Energy (DOE) central air conditioners and central air conditioning heat pumps test procedure for Kool-Fire's model HC and LTH burner-assisted heat pumps.

The Department agrees that the Kool-Fire lines of HC and LTH burner-assisted heat pumps contain design characteristics which prevent testing them in the heating mode according to the prescribed test procedures. Thus, it appears likely that the Petition for Waiver will be granted.

Kool-Fire's Application for Interim Waiver provides sufficient information to determine that Kool-Fire has and will continue to experience a severe negative economic impact absent a favorable determination on its Application. Therefore, Kool-Fire's Application for an Interim Waiver from the DOE test procedure for its model HC and LTH burner-assisted heat pumps is granted.

Kool-Fire shall be required to test its HC and LTH series heat pumps on the basis of the test procedures specified in 10 CFR Part 430, Subpart B, Appendix M, for the cooling mode of operation, Section 2.1. The heating mode test, Section 2.2, is waived.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may be removed or modified at any time upon a determination that the factual basis underlying the application is incorrect.

The Interim Waiver shall remain in effect for a period of 180 days, or until DOE acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180-day period, if necessary.

Sincerely,

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Kool-Fire

1930 Lincoln Way East $\Delta\:$ P.O. Box 643 $\Delta\:$ Massillon, Ohio 44648–0643, 216–833–2117 $\Delta\:$ Fax 216–833–2494

July 18, 1994.

Ms. Christine Ervin,