



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Chapter I

46 CFR Chapter I

[Docket No. USCG-2012-0866]

Updates to Voluntary Consensus Standards Incorporated by
Reference

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: Many of the Coast Guard's regulations incorporate industry standards. The Coast Guard is reviewing these regulations to determine whether they contain outdated standards and, if so, whether and how these regulations should be updated to incorporate more current standards. We request comments from the public on which current industry standards should be incorporated, which currently incorporated standards are outdated, and how the Coast Guard should ensure incorporated standards are kept current.

DATES: Comments and related material must be received on or before **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number USCG-2012-0866 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this request for comments, call or e-mail Mr. Roger Butturini, Office of Standards Evaluation and Development, U.S. Coast Guard; telephone 202-372-1494, e-mail Roger.K.Butturini@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V.

Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Request for Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2012-0866), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>), or by fax, mail, or hand delivery, but please use only one of these means.

Submitting comments

If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number (USCG-

2012-0866) and click "Search." Then click "Submit a Comment." If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2012-0866) and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

A list of material the Coast Guard has incorporated by reference may be viewed online using the Standards

Incorporated by Reference (SIBR) Database maintained by the National Institute of Standards and Technology (NIST). To view the list online, go to <http://standards.gov/sibr/query/index.cfm>. At the top of that page, click the tab marked "Regulatory." Then, in the line marked "Incorporated By," use the drop-down menu to select "Department of Homeland Security, U.S. Coast Guard" and click "Search."

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

Background and Purpose

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or would otherwise be impractical. Voluntary consensus

standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. The Coast Guard has actively participated in the development of industry standards for safety of marine equipment at the International Maritime Organization (IMO), the International Organization for Standardization (ISO), ASTM International, the American Society of Mechanical Engineers (ASME), and 42 other international and domestic standards development organizations.

When appropriate, the Coast Guard incorporates industry standards, and particularly voluntary consensus standards, into its regulations. This process, known as incorporation by reference, gives the content of incorporated standards the same force as regulations published in the Code of Federal Regulations. A list of standards the Coast Guard has incorporated by reference is available as described in the "Viewing comments and documents" section of this request for comments.

Incorporation by reference occurs as part of a rulemaking and is governed by specific rules, which are available at 1 CFR part 51. Under these rules the Coast

Guard may only incorporate a specific edition of a standard, and that standard must be reasonably available to the class of persons affected by it. Because standards organizations revise and replace standards over time, the specific edition incorporated by the Coast Guard eventually may become outdated, unavailable to the class of persons affected by it, or both. This can lead to conflicts between domestic and international requirements, or between regulatory requirements and modern best practices. Therefore, the Coast Guard reviews its incorporations by reference and updates them if necessary.

In the past the Coast Guard has included these updates in its individual, topic-driven rulemaking efforts. The Coast Guard is interested, however, in conducting one or more rulemakings devoted specifically to updating references to standards that are incorporated in its regulations.

Request for Comments

Through this request for comments, the Coast Guard solicits public comments on whether Coast Guard regulations incorporate standards that should be updated, which current standards should replace those already incorporated, and how the Coast Guard should ensure incorporated standards are kept current. Your experiences with incorporated

standards will help us decide which references to update in our regulations, and which revisions should receive priority. In your response to this request for comments, we encourage you to include the following information if possible:

1) If you are aware of an incorporated standard that is outdated, please provide its full title and publication number, the reasons you believe it is outdated, the standard you suggest should replace it, and the reasons that standard is the best choice. Please be as specific as possible when describing the differences between the incorporated standard and the suggested replacement, and the reasons those changes are desirable.

2) If you are aware of an incorporated standard that has been reaffirmed or superseded without change, please provide its title, the publication number, and the title of the edition you believe has replaced it.

3) If you are aware of instances in which members of the public follow a newer or different standard than the one incorporated in regulation, please indicate which standard and how widespread its use. You may submit anonymous comments, but detailed information on industry practice will help us develop cost estimates when deciding whether to incorporate the newer standard.

4) If you are aware of conflicts between incorporated standards, or of errors that lead to confusion about incorporated standards, please describe the conflict or confusion.

This request for comments is issued under authority of 5 U.S.C. 552 (a) and 33 CFR subpart 1.05.

Dated: November 7, 2012

F.J. Sturm
Acting Director of Commercial Regulations and Standards,
U.S. Coast Guard

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