ASTM International Experience with Incorporation by Reference

12 November 2019
James Olshefsky
Director, External Relations
www.astm.org
Background

ASTM International’s Context

- ASTM’s experience offers a robust, time-tested development process delivering globally accepted and respected standards
  - Established 1898
  - 30,000+ members in 155+ nations
  - 145+ Technical Committees meeting market needs of 90+ industry sectors
- Success based on responsiveness to the market – to both member and customer needs
  - In addition to standards, we offer training, proficiency testing, certification and an electronic platform that facilitates collaboration
We all want to facilitate market access

- Reduce non-tariff barriers that impede the flow of goods and services
- Reduce the cost of differences in regulation and standards
- Increase compatibility, transparency, and cooperation
- Foster innovation and technology transfer
- Boost the competitiveness of SMEs and companies

We want policies that advance trade and promote greater prosperity
The ASTM MoU Program

Memorandum of Understanding

ASTM International

- Full collection of ASTM Standards (adoption, as the basis of a national standard, consultation, normative reference, reference in regulation)
- Membership at no cost to participant
- Training (on-site, virtually; sponsored and shared cost)

MoU Partner

- Access to ASTM standards in its Information Center
- Annual Report on use of ASTM standards
- Utilization of ASTM standards where relevant and appropriate

113 MoU partners worldwide

8400+ citations of ASTM standards in non-US nations

© ASTM International
Six Ways to Adopt and Reference ASTM

Available to all Public and Private Standards’ Users

- Incorporated by Reference in Technical Regulations
- Normative Reference in Standards
- Code Reference (i.e. Building Code)

Available Only to MoU Partners

- Identical Adoption
- Equivalent Adoption
- Used as the Basis of a National Standard or Consulted
Uses of ASTM International Standards

Incorporated by Reference:

• ASTM International standard is called out, either in whole or in part, in a regulation, law, decree, rule, act, directive, order, edict, etc. (i.e. any official government document other than a National Standard) The content of the ASTM standard, either in whole or in part, is intended to be used as an additional requirement of the new regulation.

• EXAMPLE: The Pipeline and Hazardous Materials Safety Administration (PHMSA) currently incorporates by reference into 49 CFR Parts 192, 193, and 195 all or parts of more than 60 standards developed and published by standard developing organizations (SDO's).
National Technology Transfer and Advancement Act of 1995 (NTTAA)
– Requires federal government agencies to use standards developed by voluntary consensus standards organization when possible
– Encourages federal government agencies to participate in standards development organizations

OMB Circular No. A-119
– Reinforces goals of National Technology Transfer and Advancement Act
– Discourages federal agencies from using government-unique standards
– Clarifies that agency reps can participate, vote, and even lead activities

“A voluntary consensus standards body is defined by the following attributes: (i) Openness. (ii) Balance of interest. (iii) Due process. (vi) An appeals process. (v) Consensus”
Government Role as Standards User – Adoption through Incorporation by Reference

IBR Count 16,665
## Standards in US Regulations

<table>
<thead>
<tr>
<th>Standards Developing Organization</th>
<th>Standards in US CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASTM International</td>
<td>ASTM 2366</td>
</tr>
<tr>
<td>American Society of Mechanical Engineers</td>
<td>ASME 599</td>
</tr>
<tr>
<td>American National Standards Institute</td>
<td>ANSI 576</td>
</tr>
<tr>
<td>Society of Automotive Engineers</td>
<td>SAE 418</td>
</tr>
<tr>
<td>National Fire Protection Association</td>
<td>NFPA 380</td>
</tr>
<tr>
<td>American Petroleum Institute</td>
<td>API 270</td>
</tr>
<tr>
<td>U.S. Environmental Protection Agency</td>
<td>EPA 242</td>
</tr>
<tr>
<td>State of Illinois</td>
<td>IL 206</td>
</tr>
<tr>
<td>Association of Official Analytical Chemists</td>
<td>AOAC 199</td>
</tr>
<tr>
<td>Insulated Cable Engineers Association</td>
<td>ICEA 192</td>
</tr>
</tbody>
</table>
## Federal Agencies Participation in ASTM

<table>
<thead>
<tr>
<th>Agency Name</th>
<th>Members</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Agriculture</td>
<td>23</td>
</tr>
<tr>
<td>Department of Commerce (incl. NIST)</td>
<td>259</td>
</tr>
<tr>
<td>Consumer Product Safety Commission</td>
<td>56</td>
</tr>
<tr>
<td>Department of Defense</td>
<td>368</td>
</tr>
<tr>
<td>Department of Energy</td>
<td>185</td>
</tr>
<tr>
<td>Environmental Protection Agency</td>
<td>158</td>
</tr>
<tr>
<td>Federal Aviation Administration</td>
<td>55</td>
</tr>
<tr>
<td>Department of Health and Human Services (incl. FDA)</td>
<td>227</td>
</tr>
<tr>
<td>Housing and Urban Development</td>
<td>5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Agency Name</th>
<th>Members</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Interior</td>
<td>50</td>
</tr>
<tr>
<td>Department of Justice</td>
<td>122</td>
</tr>
<tr>
<td>NASA</td>
<td>67</td>
</tr>
<tr>
<td>Nuclear Regulatory Commission</td>
<td>19</td>
</tr>
<tr>
<td>Occupational Safety &amp; Health Administration</td>
<td>13</td>
</tr>
<tr>
<td>Department of Transportation</td>
<td>120</td>
</tr>
<tr>
<td>Department of Veterans Affairs</td>
<td>12</td>
</tr>
</tbody>
</table>
Consumer Product Safety Improvement Act (CPSIA)

- Passed in response to high-profile product recalls in 2007 & 2008
- Major Provisions
  - All toys must meet the safety requirements of ASTM F963 Standard Consumer Safety Specification for Toy Safety
  - Under section 106(g) of the CPSIA, if ASTM proposes revisions to ASTM F963, ASTM must notify the U.S. Consumer Product Safety Commission (CPSC). The revised standard shall be considered to be a consumer product safety standard ... effective 180 days after the date on which ASTM notifies the Commission of the revision, unless, within 90 days after receiving that notice, the Commission notifies ASTM that it has determined that the proposed revision does not improve the safety of toys.
Keeping Referenced Standards Up-To-Date

Environmental Protection Agency (EPA)

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 770**


**RIN 2070–AK36**

**Voluntary Consensus Standards**

**Update: Formaldehyde Emission Standards for Composite Wood Products**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is publishing this final rule to revise the formaldehyde standards for composite wood products regulations. The revision updates the incorporation by reference of multiple voluntary consensus standards that have been updated, superseded, or withdrawn, and provides a technical correction to allow panel producers to correlate their approved quality control test method to the ASTM E1333–14 test chamber, or, upon showing equivalence, the ASTM D6007–14 test chamber.

**DATES:** This final rule is effective on February 7, 2018. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of February 7, 2018.

**TABLE 1—VOLUNTARY CONSENSUS STANDARDS COMPARISON**

<table>
<thead>
<tr>
<th>Current standard established by final rule</th>
<th>Status</th>
<th>Update to be promulgated effective</th>
</tr>
</thead>
<tbody>
<tr>
<td>PS–1–07 Structural Plywood</td>
<td>Updated version</td>
<td>PS–1–09 Structural Plywood</td>
</tr>
</tbody>
</table>

¹ Note that the ANSI/AITC 190.1–2002 Standard is no longer under the American Institute of Timber Construction purview for the 2017 version, and is now an APA—the Engineered Wood Association managed standard.
Making ASTM Standards Incorporated by Reference Reasonably Available

Reading Room

This is a service where you can view and read ASTM safety standards incorporated in United States regulations.

The standards are presented for online reading. There are no print or download options. To acquire the current version of the standards with print and download options, follow the hyperlink to the current version.

CAUTION: The ASTM standards available on this site are the versions and year-dates actually referenced in the respective federal regulation or law. The ASTM standard referenced MAY NOT BE THE MOST RECENT OR UP-TO-DATE version available. It is possible that the standard and/or technology at issue has changed or been updated during the period of time since the regulation/law was enacted. As a non-governmental organization, ASTM does not control which ASTM standards (and versions thereto) are referenced in federal regulations or laws.

Send comments or questions to service@astm.org

OPEN READING ROOM
Working with Federal Agencies

- Review of the Code of Federal Regulations and Congressional Record
- Understand procurement and regulatory standards needs
- Communicate technical committee concerns to policymakers
- Ensure reference to current standards where practical
- Encourage government liaison with and participation in committee activities
In Conclusion

Benefits of Incorporating By Reference

• Minimizes duplication and conflicting guidance in industry
• Able to stay current with most up-to-date work product generated by industry experts around the world
• Reduces development time for new regulations and eliminates costs associated with developing new country specific regulations
• Contributes to transparency and allows feedback on whether other standards should be recognized during the proposed rule-making
• Ensures the use of a document that has already reached consensus by a broad group of stakeholders, including regulators
• Regulations incorporating consensus standards are more likely to be implemented
Contacts

ASTM international Headquarters
Jim Olshefsky
100 Barr Harbor Drive
P.O. Box C700
West Conshohocken, PA 19428-2959, USA
tel +1.610.832.9500
jolshefsky@astm.org

Brussel, Belgium
Sara Gobbi
tel +32.0.28.405.127
sgobbi@astm.org

Ottawa, Canada
Diane Thompson
tel +1.613.751.3409
dthompson@astm.org

Beijing, China
Mrs. HU Yanan
tel +86.10.5109.6033
nhu@astm.org

Lima, Peru
María Isabel Barrios
tel +51.1.205.5502
ASTMLatinAmerica@astm.org

Washington, D.C., USA
Jeffrey Grove
tel +1.202.223.8505
jgrove@astm.org

www.astm.org