

The Human Factors and Ergonomics Society is pleased to respond to the Proposed Rule, from the perspective of a relatively small Standards Development Organization (SDO). In our view, a fundamental consideration is the protection of intellectual property. SDOs expend considerable resources in the development of standards. They own those standards and those who wish to use them, for whatever purposes, must pay to access that information, regardless of whether it is made available through print or electronic means. The income from the sale of standards allows SDOs to update standards and to create new ones. We believe that it is the federal government's responsibility to fully honor the intellectual property rights of SDOs as it develops regulations for making standards incorporated by reference (IBRs) "reasonably available" to interested persons. The federal government should, perhaps, update its definition of "reasonably available." "Reasonably available" could include a reference to a web site where standards could be purchased, but at a minimum the mechanisms for making IBR standards available should be done in a way that ensures SDOs fair compensation for the use of their intellectual property.

Sincerely,

Daryle Gardner-Bonneau, Ph.D.

On Behalf of the Human Factors and Ergonomics Society

P.O. Box 1369

Santa Monica, CA 90406