



INTERNATIONAL

Standards Worldwide

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Office of the Federal Register
The National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740

Re: Incorporation by Reference, Docket Number: OFR-13-0001

Dear Sir/Madam:

ASTM International (ASTM) is pleased to submit these comments in response to the Office of Federal Register's (OFR) notice of proposed rulemaking and response to the petition to amend 1 CFR Part 51 on incorporation by reference.

ASTM International

ASTM, a not-for-profit organization, is dedicated to developing and publishing international voluntary consensus standards. Over 30,000 individuals from 135 countries serve on ASTM's 143 technical committees to develop over 12,000 quality standards that serve the global society and are utilized by ninety industrial sectors. Over 1,200 ASTM standards are incorporated by reference in federal regulations. ASTM is accredited by the American National Standards Institute and meets the World Trade Organization's six principles for the development of international standards.

ASTM International Supports OFR's Proposed Amendments to 1 CFR §51.5

ASTM International supports the OFR's proposed amendments to 1 CFR §51.5. ASTM agrees that there is not one solution to the issue of access to the content of copyrighted works referenced in federal regulations. Therefore, as OFR suggested, each responsible federal agency should consult with the standards development organizations (SDO) to address the best solution for access to referenced documents. This approach fosters the public-private partnership and provides the flexibility that federal agencies and SDOs need when considering agencies' budget requirements, the costs of developing standards, delivery tools, and providing access, and given that SDOs own the copyrights in their standards. OMB Circular A-119 states that federal agencies "must observe and protect the rights of the copyright holder" when a voluntary standard is used and published in an agencies' document.

ASTM has adopted the practice of working with a federal agency on a case-by-case basis to provide access to ASTM standards during rulemaking that would also help federal agencies meet the proposed amended requirements in 1 CFR §51.5. For example, upon a written request to ASTM by the relevant federal agency to provide access to the content of our standards during the public review and comment period of a proposed rulemaking, ASTM works with the agency to provide the public with read-only access to the standards at no cost while taking steps to ensure that ASTM maintains ownership and control in our copyrighted works. Such consultation helps federal agencies meet the proposed amended requirements in §51.5(a)(1). Additionally, ASTM provides a scope and summary of each standard on ASTM's website at www.astm.org, which would assist federal agencies in meeting the proposed requirements in §51.5(a)(2).

ASTM can also assist the responsible federal agency to meet the proposed amended requirements in §51.5(b)(2) because ASTM makes the specific versions of our standards that are incorporated by reference and whose compliance is mandatory in final federal rules available in a reading room on ASTM's website. The reading room enables the public to access these standards on read-only basis and at no cost to the public or the federal agency.

Conclusion

Overall, ASTM supports OFR's proposed amendments to 1 CFR §51 because they recognize the importance of a flexible approach and the value of the public-private partnership embedded in the current U.S. system of standardization. The public-private partnership is strengthened by the OFR's encouragement and support of a federal agency to consult with a SDO to find the best solution for both parties on issues related to the access of standards incorporated by reference.

Please contact Jeff Grove in the ASTM Washington Office at 202-223-8505 to discuss ASTM's comments.

Sincerely,

A handwritten signature in cursive script that reads "James A. Thomas". The signature is written in black ink and is positioned above the printed name.

James A. Thomas