



January 31, 2014

Submitted Electronically to <http://www.regulations.gov>, docket number OFR–2013–0001

Charles A. Barth,  
Director  
Office of the Federal Register  
800 North Capitol Street NW, Suite 700  
Washington, DC 20001

Attention Director Barth:

UL appreciates the opportunity to submit comments in conjunction with the Office of the Federal Register's (OFR) request for comments on its proposal in response to a petition seeking to amend the regulations governing the approval of agency requests to incorporate material by reference into the Code of Federal Regulations. UL supports the OFR's proposal to encourage agencies to outline the actions they took to ensure materials incorporated by reference are reasonably available to interested parties or to summarize the contents of the materials they wish to incorporate by reference in the preambles of their rulemaking documents.

We believe this approach gives agencies the flexibility to choose from a number of options to demonstrate that materials they wish to incorporate by reference are made reasonably available while at the same time respecting copyright in such materials. For example, many sections of the Code of Federal Regulation (CFR) currently indicate that pertinent standards are available for viewing at the National Archives and Records Administration (NARA) whose practice is to provide contact information for the applicable standards developing organizations (SDOs). Some standards incorporated by reference are also available at government libraries and other facilities. In some instances, agencies could also reference practices used by individual SDOs to make information on their standards available to the public. UL standards, for example, are available for public viewing at UL Technical Reference Centers. UL's full standards, though not always free, are available to the public via licenses that may be purchased through Comm 2000, a third-party vendor that distributes both electronic and hard copy versions of UL standards. Headings and outlines for individual UL standards are also available at no cost at [www.ul.com](http://www.ul.com). This information could be especially useful if the agency chooses to summarize the contents of the materials they wish to incorporate by reference instead of outlining the actions they took to demonstrate reasonable availability. Finally, UL and many other SDOs already provide free read-only, online access to their standards that are incorporated by reference.

However, it is imperative that agencies understand when outlining the actions they took to ensure materials incorporated by reference are made reasonably available that "reasonable availability" should not be defined simply as free or unlimited access to anyone online or that the materials lose copyright protection. Rather, the definition should encompass the many aforementioned options, and recognize that reasonable availability can vary depending on the particular situation and in accordance with a particular SDO's practices. While interested parties should have reasonable access to privately developed standards referenced by regulation, this access should not require the loss of copyright protection nor necessarily grant the right to own a free copy. Government agencies should make clear to public stakeholders that such private standards are protected by copyright and discourage infringement, while at the same time providing for reasonable access.

UL would again like to thank the Office of the Federal Register for the opportunity to comment on its proposal in response to a petition seeking to amend the regulations governing the approval of agency requests to incorporate material by reference. UL strongly supports federal agencies working closely with SDOs to determine the most suitable options for ensuring privately developed standards materials incorporated by reference are made reasonably available to interested parties under the appropriate circumstances. UL is pleased to speak with the Federal Government further about this topic. If you have questions about this document, please do not hesitate to contact Jennifer Boger, Trade Manager, Global Government Affairs, at 202-296-7841 or [Jennifer.Boger@ul.com](mailto:Jennifer.Boger@ul.com).

Sincerely,

A handwritten signature in cursive script, appearing to read "Ann Weeks".

Ann Weeks  
Vice President, Global Government Affairs