



## National Fire Protection Association

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The National Fire Protection Association (NFPA) appreciates this opportunity to provide comments on the proposed revision to the A119 Circular. For over a century, NFPA has witnessed the positive impact that government use of private-sector developed standards has had on public welfare and the economy. As others, including the American National Standards Institute (ANSI), have noted, OMB should be commended for the thorough and thoughtful approach taken in updating this important policy document. NFPA is supportive of the comments filed by ANSI and offers the comments below simply as additional feedback.

NFPA appreciates the addition of the guidance provided in section 6(g), directing compliance with U.S. trade obligations and avoiding technical barriers to trade. It should be noted that while NFPA is based in the United States, our standards are used all over the world, and the same is true for many other U.S.-based standards developers. A standard's global relevance, and the adherence by its developers to the principles outlined by the World Trade Organization Technical Barriers to Trade Agreement Committee Decision<sup>1</sup> confer international status, not the location of its developer. Given the noted openness and transparency of the U.S. standards system, we would encourage OMB to add to the revision document an affirmation to agencies that standards developed by domestic-based standards development organizations (SDOs) may also be international standards.

There are many outdated standards referenced in the Code of Federal Regulations (CFR) and NFPA is pleased to see OMB address the issue in sec. 6(o). Indeed, the CFR references NFPA standards going as far back as the 1960s and 70s, despite the fact all NFPA standards undergo review and revision every 3 to 5 years. Performing standards specific regulatory reviews also on a 3 to 5 year basis could help alleviate this problem. However, past RFIs and ANPRMs issued to tackle this problem have yielded few completed rulemakings to incorporate the most recent versions of referenced standards. Perhaps going forward, a more efficient method for ensuring timely updates could include an immediate determination by the agency, upon notice of an updated edition of a standard, of whether the changes contained therein are likely to be noncontroversial, and if so, the issuance of a standards specific direct final rule. In addition, to ensure the issue remains visible to agencies and the public, we would suggest requiring agencies include a listing of all referenced standards within their respective jurisdictions that are out of date by a decade or more in their reporting to the National Institute of Standards and Technology under sec. 10(c).

NFPA applauds the flexible approach taken in the proposed revision on the issue of the availability of incorporated standards and the recognition that denying standards developers compensation for their copyrighted materials would undermine the qualities that contribute to the development of high quality standards, namely independence, openness, balance, and transparency. While NFPA's practice is to

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<sup>1</sup> G/TBT/1/Rev. 10. "Decision of the Committee on Principles for the Development of International Standards, Guides, and Recommendations with Relation to Articles 2, 5 and Annex 3 of the Agreement"

provide free viewing access to our standards on our website, this model does not work for all standards developers, depending on a variety of factors, including the business needs of the SDO, the type of standards involved, and the intended user of the standard. Allowing multiple approaches to this issue will ensure agencies can continue to rely on the best standard to meet a particular need, and it is in keeping with the conclusions reached by the independent assessment of the Administrative Conference of United States in December of 2011<sup>2</sup>. For its part, NFPA will continue to make the current and immediate past editions of all NFPA standards available for viewing in the free format on our website. We have also worked to make all historical editions of NFPA codes and standards available in PDF format for purchase and immediate download from our website. In addition, we are available and interested in working with federal agencies to expand our free viewing format offerings to meet agency needs.

Thank you for encouraging the participation of agencies in the standards development process in sec. 7. The input received from government representatives is invaluable in the development process. To the maximum extent possible, agency representatives should be full participants in development process, including voting on balloted measures. As agency Standards Executives develop procedures for participation, under sec. 15(c)(i), we would encourage that these procedures be clear and transparent. Finally, to further foster working together, NFPA would encourage, and we are available to assist, the Office of the Federal Register, OMB, federal agencies and the National Institute of Standards and Technology in publishing appropriate web links and other useful information, in the CFR and elsewhere, to assist the public in easily locating and accessing NFPA standards incorporated by reference in the CFR.

The proposed revision of A119 shows a careful understanding of the role voluntary consensus standards play in the federal government and of the public-private partnership that fosters the development of those standards. Thank you again for the opportunity to provide comments.

Sincerely,



Gregory Cade  
Director, Government Affairs  
National Fire Protection Association

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<sup>2</sup> Administrative Conference Recommendation 2011-5, Incorporation by Reference