

**From:** [Grove, Jeff](#)  
**To:** [Emily Bremer](#)  
**Subject:** RE: Showing that Standards Are Not Just for Government Use  
**Date:** Monday, November 28, 2011 1:55:27 PM

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Hi Emily,

Do you know whether Strauss was able to get a statement out of the ABA section as he was seeking?

Also, does it look like there will be amendments offered at the ACUS meeting this week?

Thanks, JG

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**From:** Emily Bremer [mailto:ebremer@acus.gov]  
**Sent:** Monday, November 21, 2011 5:11 PM  
**To:** Grove, Jeff  
**Subject:** RE: Showing that Standards Are Not Just for Government Use

This is extremely helpful, Jeff. Thank you so much for your prompt and on-point reply!

Have a great holiday!

Best,  
Emily

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**From:** Grove, Jeff [mailto:jgrove@astm.org]  
**Sent:** Monday, November 21, 2011 3:05 PM  
**To:** Emily Bremer  
**Subject:** RE: Showing that Standards Are Not Just for Government Use

Hi Emily,

On your first question, you are correct that only 885 out of our volume of over 12,000 standards are referenced federally. So the 7 percent number is correct. Or 93 percent of all the standards we work to develop and maintain do not end up as SIBR.

I have been thinking about your second question and can think of a few points.

For an example of a standards that are not referenced in regulations, but that are used extensively in the US and most of the world - consider the ASTM paint standard D562 per the write-up below:

## D01: Global Paint Standards

The International Use of Standards from ASTM Committee D01

*BY CICELY ENRIGHT*

Paint and coatings color our world, and ensuring their quality as well as that of varnish, lacquer, printing ink and artists' materials are the standards developed by a longstanding ASTM International committee.

The more than 600 members of Committee [D01](#) on Paint and Related Coatings, Materials and Applications, which traces its roots to the early years of ASTM International, include representatives from 36 countries who oversee more than 650 standards.

Globalization has changed the face of business in many ways, and one result is that ASTM D01 standards are in use around the world, specifying pigments and surface preparation, and called for

in the testing of coating components and paint properties.

D01 members say they have encountered D01 standards in Asia and South America, Europe and the United States.

"I have encountered D01 standards in all continents and most industrial countries around the world. This is because some of the ASTM standards are unique, and they are referenced because there is no equivalent," says D01 chairman John Fletcher, technical support manager, Elcometer Ltd., Manchester, United Kingdom.

A Case in Paint: [D562](#)

Among notable D01 standards finding international use is D562, Test Method for Consistency of Paints Measuring Krebs Unit (KU) Viscosity Using a Stormer-Type Viscometer, which determines the load required to produce a certain number of revolutions for a paddle immersed in paint. The information guides the coatings community in specifying paints and coatings, and in controlling their consistency.

The Krebs viscometer, so named for its original U.S. developer, is used in ASTM International standards for paint viscosity testing. "There are no other international standards for this test, and it is widely used to characterize paint products as the viscosity affects how a paint can be applied," Fletcher says.

The viscosity of a paint is noted on the data sheet for paints made in one country and exported to another, for example, with data about that paint property. Viscosity impacts the amount of energy it takes to transport paint through pipes and hoses to the spray gun used to coat a car, for example. "By giving someone the Krebs viscosity, they can tell whether a coating is going to perform correctly in an application or not," says Joe Peters, technical standards manager for Leneta Co. in Mahwah, N.J., and D01 vice chairman. For a car, if the paint does not flow properly, a non-uniform finish could result.

Peters notes that a large database of historical data about the method's use has the additional advantage of further information comparison. "It is a method that answers everybody's needs," Peters says.

Also, please think of this issue in the opposite way – in the context of standards that are not referenced in regulations and that have a very small commercial application (if any), but that play an important role in public safety/environmental cleanup - as in the aftermath of BP Deepwater Horizon spill in the Gulf. In a particular, the two ASTM standards mentioned below have played an important role in the clean up.

They are developed and maintained by an ASTM committee with no direct federal funding. There are very few companies involved in clean-up, so there are only a handful of purchasers of these standards at the list price of \$35 each.

I hope this is helpful and thanks for your efforts! Jeff

### **ASTM Standards Serve as Technical Resources to Support Oil Spill Response**

Standards developed by ASTM International Committees [F20](#) on Hazardous Substances and Oil Spill Response and E47 on Biological Effects and Environmental Fate play a role in both the initial response and follow-up to oil spills. The recent spill in the Gulf of Mexico highlights the importance of standards that cover all aspects of oil spill response and cleanup.

#### ***F20 on Hazardous Substance and Oil Spill Response***

Since its founding in 1975, ASTM International [Committee F20](#) on Hazardous Substances and Oil Spill Response has developed a wide variety of standards pertaining to performance, durability, strength of systems and techniques used for the control of oil and hazardous substances. ASTM F20 standards are used for oil response activities around the world.

“Almost everything we have done since 1975 is going to be applied in some way, shape or form in the Gulf of Mexico spill response,” says Peter Lane, chairman of F20, and president and CEO, Applied Fabric Technologies Inc. Lane also notes that some F20 standards are relevant to the immediate response to the Gulf spill, while others could be used during follow-up procedures once the initial response has been completed.

Subjects covered in F20 standards include: containment booms; in-situ burning; dispersant application; spill operation; shoreline countermeasures; and skimmers and skimmer effectiveness.

Among the most prominent F20 standards are [F1084](#), Guide for Sampling Oil/Water Mixtures for Oil Spill Recovery Equipment and [F2152](#), Guide for In-Situ Burning of Spilled Oil: Fire-Resistant Boom. The committee continues to investigate the cutting edge of technology as well, with its proposed new standard WK24607, Specification for the Design and Use of Vessel-Mounted Camera Systems for Oil Spill Response.

ASTM F20 standards are published in Volume 11.05 of the *Annual Book of ASTM Standards*. In addition, 57 F20 standards that address the latest research in oil spill recovery applications and ecological considerations for the use of chemical dispersants and containment of emergency response personnel are available in the third edition of the compilation, [ASTM Standards on Hazardous Substances and Oil Spill Response](#). The committee also publishes ASTM manuals and special technical publications that contribute to the cutting edge of oil spill response technology.

Members of F20 include stakeholders from the petroleum industry as well as manufacturers, regulators, contractors, end users and environmental advocates.

#### ***E47 on Biological Effects and Environmental Fate***

Standards developed by ASTM International [Committee E47](#) on Biological Effects and Environmental Fate are used to measure the effects of toxins in the environment. ASTM E47 standards focus on the following: the effects of physical and chemical stress on aquatic and terrestrial plants and animals (including humans); and those properties of materials that affect and determine their fate, distribution and persistence when introduced into the environment.

In addition to ASTM standards, E47 is responsible for the 1995 publication of Exxon Valdez Oil Spill: Fate and Effects in Alaskan Waters, the first definitive explanation of the effects of the Exxon Valdez oil spill which occurred in 1989. The book contains 25 peer-reviewed papers that cover key topics such as: chemistry and fate of the spill; shoreline impacts of the spill; effects on fish and fisheries; effects on wildlife; and archaeological site impact.

**ASTM Committee F20 Next Meeting:** Oct. 12-13, October committee week, San Antonio, Texas

**F20 Technical Contact:** Peter Lane, Applied Fabric Technologies, Orchard Park, N.Y., Phone: 716-662-0632; [lane@afti.com](mailto:lane@afti.com)

**F20 ASTM Staff Contact:** Jeffrey Adkins, Phone: 610-832-9738; [jadkins@astm.org](mailto:jadkins@astm.org)

**ASTM Committee E47 Next Meeting:** Nov. 7, in conjunction with SETAC North America 31st Annual Meeting, Portland, Ore.

**E47 Technical Contact:** Lawrence Kapustka, LK Consultancy, Calgary, Alberta, Canada, Phone: 403-668-0140; [kapustka@shaw.ca](mailto:kapustka@shaw.ca)

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**From:** Emily Bremer [<mailto:ebremer@acus.gov>]  
**Sent:** Monday, November 21, 2011 11:33 AM  
**To:** Grove, Jeff  
**Subject:** RE: Showing that Standards Are Not Just for Government Use

That's wonderful, thank you!!

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**From:** Grove, Jeff [<mailto:jgrove@astm.org>]  
**Sent:** Monday, November 21, 2011 11:29 AM  
**To:** Emily Bremer  
**Subject:** RE: Showing that Standards Are Not Just for Government Use

Hi Emily,

I am working on this – but need to step out for a luncheon. I hope to get back to you later today.

Thanks, Jeff

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**From:** Emily Bremer [<mailto:ebremer@acus.gov>]  
**Sent:** Monday, November 21, 2011 9:21 AM  
**To:** Grove, Jeff  
**Subject:** Showing that Standards Are Not Just for Government Use

Jeff,

As we move towards our Plenary session, at which the proposed incorporation by reference recommendation will be debated, we are having some internal discussions about the market for and use of standards. These discussions were spurred by comments and proposed amendments received from one of our senior fellows, Professor Peter Strauss of Columbia Law School. These comments and proposed amendments are available here:

[http://www.acus.gov/wp-content/uploads/downloads/2011/11/Peter\\_Strauss\\_Combined\\_Comment\\_and\\_ProposedLanguage.pdf](http://www.acus.gov/wp-content/uploads/downloads/2011/11/Peter_Strauss_Combined_Comment_and_ProposedLanguage.pdf)

One key point in our discussions is that standards are not made just for government purposes, and the market for a standard may be bigger than just the community of those who are required by federal regulations to comply with it. As I understand it, most standards are not made for government use and are never incorporated by reference. Is that right?

Can you please help me with some quick data points?

First, I'd like to get a handle on the percentage of standards that are incorporated by reference. I've read that ASTM has over 12,000 standards—does that include different versions of the same standards, or is that count of unique standards? NIST's database says that there are 2230 references to ASTM standards in the CFR (and only 885 if you discount duplicate references to the same standard). This suggests that somewhere between 7.3% (if you use the 885 figure) and 18.6% (if you use the 2230 figure) of ASTM's standards are incorporated by reference. Does that sound right to you?

Second, can you please help me identify an example of a standard that has a market beyond just a class of users required by law to use it? So, it could be standard that is widely used, but not incorporated by reference in any federal regulation. Or it could be a standard that is incorporated by reference, but is purchased and used by many more people than just those required to follow the regulation. An example along these lines would be very helpful because it would allow our discussions to have a more concrete dimension.

Thank you so much for your time and help! I understand that these week, shortened as it is by the holiday, is likely to be a busy one. If you have any questions, or would like to discuss, please feel free to give me a call. I'll be in the office all week, except for Thursday.

All the best,

Emily Schleicher Bremer | Attorney Advisor



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