

## Department of Labor (DOL) Fiscal Year 2021 Agency Report

**1. Please provide a summary of your agency's activities undertaken to carry out the provisions of OMB Circular A-119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities" and the National Technology Transfer and Advance Act (NTTAA). The summary should contain a link to the agency's standards-specific website(s) where information about your agency's standards and conformity assessment related activities are available.**

The United States Department of Labor (DOL) promulgates safety and health standards, which provide minimum requirements for the protection of employees from workplace hazards. DOL consults and routinely relies on Voluntary Consensus Standards (VCS) whenever a Federal standard is written or updated. There are approximately 200 consensus standards referenced throughout DOL standards. The references appear in hundreds of requirements and range from informational to mandatory requirements. Since the VCS are on a shorter update cycle than Federal standards, the VCS provide a more current view of industry standards and practices than DOL can effectively or economically achieve. DOL updated some of its existing standards to incorporate the new editions of cited voluntary consensus standards.

Additionally, DOL uses VCS for enforcement support in the absence of a Federal safety or health standard. DOL may also use a VCS where a federal standard exists, but compliance with the VCS in lieu of the Federal standard does not adversely affect worker safety and health. These uses improve public health and safety and allow industry to use newer technology and more flexible and innovative methods to protect workers.

Nearly 60 DOL employees participated on more than 160 committees, representing 23 VCS bodies. DOL benefits from participation in the VCS process and from the expertise of other VCS committee members as DOL seeks to update its existing Federal standards and develop new ones. DOL is kept abreast of current trends and is at the forefront of emerging technologies.

DOL's Federal standards are comprehensive but they do not address every hazard in every workplace. Compliance Safety and Health Officers reference VCS during inspections and investigations when no Federal standards apply to specific circumstances. VCS are also used for compliance assistance as reference to industry best practices.

The Department of Labor maintains electronic access to its standards at:

<https://www.osha.gov/law-regs.html>

<https://www.msha.gov/regulations/standards-regulations>

**2. Please list the government-unique standards (GUS) your agency began using in lieu of voluntary consensus standards during FY 2021. Please note that GUS which are still in effect from previous years should continue to be listed, thus the total number in your agency's report will include all GUS currently in use (previous years and new as of this FY): 17**

### **(1) Government Unique Standard**

29 CFR 1910 Subpart S - Electrical Standard (Incorporated: 2007) [Incorporated: 2007]

#### **Voluntary Standard**

NFPA 70 - National Electric Code

NFPA 70E - Electrical Safety Requirement for Employee Workplaces

ANSI/IEEE C2 - National Electrical Safety Code

ANSI/ASME B30.4 - Portal, Tower, and Pedestal Cranes

NFPA 33 - Spray Application Using Flammable or Combustible Materials

ANSI Z133.1 Arboricultural Operations for Pruning, Repairing, Maintaining, and Removing Trees, and Cutting Brush

#### **Rationale**

Several voluntary consensus standards were relied upon for the various provisions in the final rule, however, no single VCS is available to cover all the workplace applications that are addressed by OSHA. The Agency believes that it would be less burdensome for the regulated community to use one OSHA standard rather than purchase and use the 6 individual consensus standards it used to write the rule.

### **(2) Government Unique Standard**

29 CFR 1910.1200 - Hazard Communication Standard (Incorporated: May 2012) [Incorporated: 2012]

#### **Voluntary Standard**

ASTM D 56-05, Standard Test Method for Flash Point by Tag Closed Cup Tester, Approved May 1, 2005, IBR approved for Appendix B to Sec. 1910.1200

ASTM D 86-07a, Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure, Approved April 1, 2007, IBR approved for Appendix B to Sec. 1910.1200

ASTM D 93-08, Standard Test Methods for Flash Point by Pensky-Martens

#### **Rationale**

Voluntary consensus standards (VCS) were relied upon for the various provisions in the final rule. This revision was undertaken to align the U.S. with other countries utilizing the United Nations Globally Harmonized System of Classification and Labeling. It was based on various standards and guidance materials used in international negotiations under the United Nations. No single VCS is available to cover all the hazard communication issues that are addressed by OSHA in this final rule. The Agency believes that it is less burdensome for the regulated community to use the one OSHA standard rather than require the purchase and use of numerous individual consensus standards it used to write the rule.

### **(3) Government Unique Standard**

29 CFR 1915 Subpart F – General Working Conditions in Shipyard Employment (Incorporated: 2011) [Incorporated: 2011]

#### **Voluntary Standard**

ANSI/IESNA RP-7-01, Recommended Practice for Lighting Industrial Facilities

ANSI/ISEA Z308.1–2009, Minimum Requirements for Workplace First Aid Kits and Supplies  
ANSI Z358.1–2009, Emergency Eyewash and Shower Equipment  
ANSI Z4.1–1995 and Z4.3–1995, Sanitation  
ANSI/ASME B56.1–1992, Recognition of the hazard of powered industrial truck tipover and the need for the use of an operator

**Rationale**

Several voluntary consensus standards (VCS) were relied upon for the various provisions in the final rule, however, no single VCS is available to cover all the workplace hazards that are addressed by OSHA in this final rule. The Agency believes that it is less burdensome for the regulated community to use the one OSHA standard rather than require the purchase and use of numerous individual consensus standards it used to write the rule.

**(4) Government Unique Standard**

29 CFR 1926 Subpart CC Cranes and Derricks in Construction (Incorporated: 2010) [Incorporated: 2010]

**Voluntary Standard**

ASME B30.2-2005  
ASME B30.5-2004  
ASME B30.7-2001  
ASME B30.14-2004  
AWS D1.1/D1.1M:2002 ANSI/AWS D14.3-94  
BS EN 13000:2004  
BS EN 14439:2006  
ISO 11660-1:2008(E)  
ISO 11660-2:1994(E)  
ISO 11660-3:2008(E)  
PCSA Std. No.2  
SAE J185  
SAE J987  
SAE J1063  
ANSI B30.5-1968

**Rationale**

Sixteen voluntary consensus standards (VCS) were relied upon for the various provisions in the final rule, however, no single VCS is available to cover all varieties of cranes and derricks and their applications.

**(5) Government Unique Standard**

29 CFR 1926.1002 Roll-Over Protective Structures (Incorporated: 2006) [Incorporated: 2006]

**Voluntary Standard**

SAE J1194-1999

**Rationale**

Many consensus standards were relied upon for various provisions in the final rule. The primary VCS that applies directly to ROPS is SAE J1194-1999 which incorporates by reference several other VCSs. If SAE J1194-1999 was adopted into the OSHA provisions, the regulated community would have to consult not only the primary VCS but all of the VCSs that are incorporated into it as well. OSHA believes it is less burdensome for the regulated community to use one OSHA standard rather than require the purchase and use of several VCSs.

**(6) Government Unique Standard**

30 CFR Part 75 - Safety Standards for Underground Coal Mines (Section 75.403 - Maintenance of Incombustible Rock Dust) - Incorporated: 2011 [Incorporated: 2011]

**Voluntary Standard**

ASTM C110-09 - Standard Test Methods for Physical Testing of Quicklime, Hydrated Lime, and Limestone

ASTM C737-08 - Standard Specification for Limestone Dusting of Coal Mines

**Rationale**

MSHA issued a final rule in June 2011 that finalized an Emergency Temporary Standard (ETS) on Maintenance of Incombustible Content of Rock Dust in Underground Bituminous Coal Mines. The basis of the ETS and final rule was a recommendation of the National Institute for Occupational Safety and Health contained in their Report of Investigations 9679 published in 2010. The ASTM consensus standards do not include the NIOSH recommendations or address the specific hazard covered in the MSHA ETS and final rule.

**(7) Government Unique Standard**

30 CFR Part 75 - Sealing of Abandoned Areas - Emergency Temporary Standard. [Incorporated: 2007]

**Voluntary Standard**

ACI 318-05 - Building Code Requirements for Structural Concrete and Commentary

ACI 440.2R-02 - Design and Construction of Externally Bonded FRP Systems for Strengthening Concrete Structures

ASTM E119-07 - Standard Test Methods for Fire Tests of Building Construction and Materials

ASTM E162-06 - Standard Test Method for Surface Flammability of Materials Using a Radiant Heat Energy Source

**Rationale**

Four consensus standards were relied upon for various provisions in the emergency temporary standard, but no one consensus standard is available that covered all of the topics covered by MSHA's Emergency Temporary Standard.

**(8) Government Unique Standard**

Electric Motor-Drive Equipment Rule [Incorporated: 2001]

**Voluntary Standard**

IEEE Standard 242-1986 Recommended Practice for Protection and Coordination of Industrial and Commercial Power Systems (IEEE Buff Book) and NFPA 70 - national Electric Code

**Rationale**

The MSHA rule is a design-specific standards. The NFPA and IEEE standards were used as a source for the rule; however, the exact requirements of the rule were tailored to apply specifically to electric circuits and equipment used in the coal mining industry.

**(9) Government Unique Standard**

Exit Routes, Emergency Action Plans, and Fire Prevention Plans, 29 CFR 1910, Subpart E [Incorporated: 2003]

**Voluntary Standard**

Life Safety Code, NFPA 101-2000

**Rationale**

The OSHA standard addresses only workplace conditions whereas the NFPA Life Safety Code goes beyond workplaces. However, in the final rule OSHA stated that it had evaluated the NFPA Standard 101, Life Safety Code, (NFPA 101-2000) and concluded that it provided comparable safety to the Exit Route Standards. Therefore, the Agency stated that any employer who complied with the NFPA 101-2000 instead of the OSHA Standard for Exit Routes would be in compliance.

**(10) Government Unique Standard**

Fire Protection for Shipyards, 29 CFR Part 1915, Subpart P [Incorporated: 2004]

**Voluntary Standard**

NFPA 312-2000 Standard for Protection of Vessels During Construction, Repair, and Lay-Up  
NFPA 33-2003 Standard for Spray Application Using Flammable or Combustible Materials

**Rationale**

Many consensus standards were relied on for various provisions in OSHA's final rule, including 15 consensus standards that are incorporated by reference. However, OSHA and its negotiated rulemaking committee determined that there was no, one consensus standard available that covered all the topics in the rule.

**(11) Government Unique Standard**

Longshoring and Marine Terminals; Vertical Tandem Lifts [Incorporated: 2009]

### **Voluntary Standard**

ISO 668:1995 - Series 1 freight containers--Classification, dimensions and ratings

ISO 1161:1984 - Series 1 freight containers--Corner fittings--Specification

ISO 1161:1984/Cor. 1:1990 - Technical corrigendum 1:1990 to ISO 1161:1984

ISO 1496-1:1990 - Series 1 freight containers--Specifications and testing--Part 1: General cargo containers for general purposes

ISO 1496-1:1990/Amd. 1:1993

### **Rationale**

Several voluntary consensus standards were relied upon for the various provisions in the final rule, however, no single VCS is available to cover all the workplace applications that are addressed by OSHA. The Agency believes that it would be less burdensome for the regulated community to use one OSHA standard rather than purchase and use the nine individual consensus standards used in this rule.

### **(12) Government Unique Standard**

OSHA's Respirable Crystalline Silica Standard for Construction [Incorporated: 2016]

### **Voluntary Standard**

ASTM's E 2625 – 09, Standard Practice for Health Requirements Relating to Occupational Exposure to Respirable Crystalline Silica for Construction and Demolition Activities

### **Rationale**

Rationale for not using: OSHA's standard includes a number of requirements that differ from the specifications in the ASTM standard because the requirements in the OSHA standard better effectuate the purposes of the OSH Act and protect employees from the significant risks posed by exposures to respirable crystalline silica (silica). The major differences include:

Both standards contain tables that specify control measures and respiratory protection for several common construction tools and tasks. OSHA's table (Table 1) differs from the ASTM tables in several respects; the OSHA standard divides respirator requirements according to duration of tasks and includes short duration tasks. Gives employers required to do exposure assessment a choice between complying with a scheduled monitoring approach or a performance-oriented approach. Requires a written plan to be reviewed annually; made available to employees, their representatives, OSHA and NIOSH upon request; address restricting access and requires a competent person to implement the plan.

Differences between the medical surveillance programs include, the ASTM standard triggers medical surveillance for employees exposed above the PEL or other occupational exposure limit for 120 or more days a year, while the OSHA standard triggers medical surveillance for employees who are required to use a respirator under the silica standard for 30 or more days a year. Medical examinations to be conducted within 30 days, spirometry testing is mandatory, an X-ray classification of 1/0 triggers referral to a specialist, tuberculosis testing for the initial examination of all employees who qualify for medical surveillance, allows employees to make their own placement decisions and the OSHA standard withholds medical information from the employer because of privacy concerns.

Hazard communication and training specifications differ from requirements in the OSHA standard in the following ways, requires training of all employees covered by the standard. The OSHA standard is more performance-based in order to allow flexibility for employers to provide training. Some training topics differ.

Recordkeeping specifications in the standard differ in that the ASTM standard specifies that medical and exposure records be retained for 40 years or for duration of employment plus 20 years.

### **(13) Government Unique Standard**

OSHA's Respirable Crystalline Silica Standard for General Industry and Maritime [Incorporated: 2016]

#### **Voluntary Standard**

ASTM's E 1132 – 06, Standard Practice for Health Requirements Relating to Occupational Exposure to Respirable Crystalline Silica

#### **Rationale**

Rationale for not using: OSHA's standard includes a number of requirements that differ from the specifications in the ASTM standard because the requirements in the OSHA standard better effectuate the purposes of the OSH Act and protect employees from the significant risks posed by exposures to respirable crystalline silica (silica). The major differences include:

The OSHA standard gives employers required to do exposure assessment a choice between complying with a scheduled monitoring approach or a performance-oriented approach, requires employers to establish regulated areas, requires a written plan to be reviewed annually and made available to employees, their representatives, and OSHA and NIOSH upon request.

Differences between the medical surveillance program include, that the ASTM standard triggers medical surveillance for employees exposed above the PEL or other occupational exposure limit (OEL) for 120 or more days a year, while the OSHA standard triggers medical surveillance for employees exposed at or above the action level (half the PEL) for 30 or more days a year. That the medical examinations to be conducted within 30 days, spirometry testing is not optional, X-ray classification of 1/0 triggers referral to a specialist, requires tuberculosis testing for the initial examination of all employees who qualify for medical surveillance, allows employees to make their own placement decisions and the OSHA standard withholds medical information from the employer because of privacy concerns.

### **(14) Government Unique Standard**

Personal Fall Protections Systems (29 CFR 1910.140) [Incorporated: 2017]

#### **Voluntary Standard**

ANSI/ALI A14.3-2008

ANSI/ASSE A10.32-2012  
ANSI/ASSE Z359.0-2012  
ANSI/ASSE Z359.1-2007  
ANSI/ASSE Z359.3-2007  
ANSI/ASSE Z359.4-2013  
ANSI/ASSE Z359.12-2009  
ANSI/IWCA I-14.1-2001

**Rationale**

The Agency believes that it is less burdensome for the regulated community to use the one OSHA standard rather than require the use of numerous individual consensus standards.

**(15) Government Unique Standard**

Sanitary Toilets in Coal Mines, 30 CFR 71, Subpart E [Incorporated: 2003]

**Voluntary Standard**

Non-Sewered Waste Disposal Systems--Minimum Requirements, ANSI Z4.3-1987

**Rationale**

The ANSI standard was not incorporated by reference because certain design criteria allowed in the ANSI standard, if implemented in an underground coal mine, could present health or safety hazards. For instance, combustion or incinerating toilets could introduce an ignition source which would create a fire hazard. For certain other design criteria found in the ANSI standard, sewage could seep into the groundwater, or overflow caused by rain or run-off could contaminate portions of the mine.

**(16) Government Unique Standard**

Steel Erection Standards [Incorporated: 2002]

**Voluntary Standard**

ANSI A10.13 - Steel Erection  
ASME/ANSI B30 Series Cranes Standards

**Rationale**

Many consensus standards were relied upon for various provisions in the final rule, but there was no one consensus standard available that covered all of the topics covered by OSHA's final rule.

**(17) Government Unique Standard**

Walking-Working Surfaces (29 CFR 1910 Subpart D) [Incorporated: 2017]

**Voluntary Standard**

ANSI/ASSE Z359.0-2012  
ANSI A14.1-2007  
ANSI A14.2-2007  
ANSI A14.3-2008



ANSI A14.5-2007  
ANSI A14.7-2011  
ANSI/TIA 222-G-1996  
ANSI/TIA 222-G-2005  
ASTM C 478-13  
ASTM A 394-08  
ANSI/ASSE A1264.1-2007  
NFPA 101-2012  
ICC IBC-2012  
ANSI/ITSDF B56.1-2012  
ASME/ANSI MH14.1-1987  
ANSI MH30.1-2007  
ANSI MH30.2-2005  
ANSI/ASSE Z359.4-2012  
ANSI/IWCA I-14.1-2001  
ANSI/ASSE A10.18-2012

**Rationale**

The Agency believes that it is less burdensome for the regulated community to use the one OSHA standard rather than require the use of numerous individual consensus standards.