

Department of Labor (DOL) Fiscal Year 2023 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 record any government-unique standards (GUS) your agency began using in lieu of voluntary consensus standards (VCS) during FY 2023. Please note, GUS which are still in effect from previous years should continue to be listed, and you do not need to report your agency's use of a GUS where no similar VCS exists.

Start by reviewing Table 1: Current Government Unique Standards FY2023.

To add a new GUS, please include:

1. The name of the GUS;
2. The name(s) and version(s) of the VCS(s) that might have been used, but after review, found to be inappropriate;
3. A brief rationale on why the VCS(s) was not chosen.

To rescind a GUS, (if they are no longer in use or have been replaced by a voluntary consensus standard) please:

1. Cross out the standard from Table 1.
2. Add a 'Rationale for Rescinding' explaining why the standard was rescinded.

Please record below the total number of GUS currently in use. This number should include the previous total plus any new GUS added, and minus any GUS rescinded:

Current total GUS: 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.