

U.S. Federal Register Update: August 10 – August 14, 2020

The U.S. Federal Register Update contains summaries of entries in the U.S. Federal Register that may be of particular interest to the standards and conformity assessment community. This update is provided on a weekly basis by ANSI as a service to its members as part of the Institute's e-newsletter, *What's New?*

Setpoints for Safety-Related Instrumentation

Published 8/14/2020

Reference ANSI

The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG-1363, "Setpoints for Safety-Related Instrumentation." This DG is proposed Revision 4 of Regulatory Guide (RG) 1.105. The proposed revision describes an approach that is acceptable to the staff of the NRC to meet regulatory requirements ensuring that setpoints for safety related instrumentation are established and maintained within the technical specification limits. This proposed guide has been revised to incorporate additional information regarding American National Standards Institute (ANSI)/International Society of Automation (ISA) Standard 67.04.01-2018, "Setpoints for Nuclear Safety Related Instrumentation," since revision 3 of RG 1.105 was issued. **Submit comments by September 14, 2020. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. This public review and comment period is 30 days in duration, although the public review and comment period for draft RGs is usually 60 days. The shortened comment period is provided because the NRC has previously interacted with stakeholders on related industry and NRC guidance and the proposed revision endorses ANSI/ISA 67.04.01- 2018 without any exceptions or clarifications. As a result, the NRC does not anticipate significant public comment. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.**

Energy Conservation Program: Test Procedure for Showerheads

Published 8/13/2020

Reference ANSI, ASME, CSA

The U.S. Department of Energy ("DOE") proposes to amend the existing test procedure for showerheads to revise the definition of a showerhead consistent with the most recent standard developed by the American Society of Mechanical Engineers ("ASME") in 2018. DOE's current definition considers all of the individual showerheads (which DOE has termed variously as sprays, openings, or nozzles) in a product containing multiple showerheads together for purposes of compliance with the water conservation standard established in the Energy Policy and Conservation Act ("EPCA"). DOE proposes instead to define showerhead as that term is defined in the 2018 ASME standard, such that each showerhead in a product containing multiple showerheads would be considered separately for purposes of determining standards compliance, and only one of them would need to be turned on for testing. DOE has determined that the proposed definition is consistent with EPCA and, unlike the current definition, compliant with Office of Management and Budget ("OMB") Circular A-119. In addition, the proposed definition is consistent with DOE's treatment of other products, such as body sprays. DOE also proposes to define the terms "body spray" and "safety shower showerhead" to clarify which products are not subject to the current energy conservation standard. DOE invites comment on all aspects of this proposal, and announces a public webinar to collect comments and data on its proposal. **Written comments and information are requested on all aspects of this proposal and will be accepted before and after the public meeting, but no later than September 14, 2020. See section IV, "Public Participation," for details.**

Prioritization and Allocation of Certain Scarce and Critical Health and Medical Resources for Domestic Use

Published 8/10/2020

Reference ANSI, AAMI, ASTM

In April, the Federal Emergency Management Agency (FEMA) issued a temporary final rule to allocate certain health and medical resources for domestic use, so that these resources may not be exported from the United States without explicit approval by FEMA. The rule covered five types of personal protective equipment (PPE), outlined below. While this rule remains in effect, and subject to certain exemptions stated below, no shipments of such designated materials may leave the United States without explicit approval by FEMA. Through this extension, FEMA modifies the types of PPE covered and extends the duration of the temporary final rule. **This rule is effective from August 10, 2020 until December 31, 2020.**

[Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Transit Protection Program Pier and Support Facilities Project at Naval Base Kitsap Bangor, Washington](#)

Published 8/10/2020

Reference ANSI

NMFS has received a request from the U.S. Navy (Navy) for authorization to take marine mammals incidental to the Transit Protection Program Pier and Support Facilities Project at Naval Base Kitsap Bangor in Silverdale, Washington over two years. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue two incidental harassment authorizations (IHAs) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on possible one-time, one-year renewals that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision. **Comments and information must be received no later than September 9, 2020.**

[National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing Residual Risk and Technology Review](#)

Published 8/14/2020

Reference ANSI, ASME, ASTM

The U.S. Environmental Protection Agency (EPA) is taking final action on the residual risk and technology review (RTR) conducted for the Miscellaneous Coating Manufacturing (MCM) source category regulated under national emission standards for hazardous air pollutants (NESHAP). These final amendments also address emissions during periods of startup, shutdown, and malfunction (SSM), including clarifying regulatory provisions for certain vent control bypasses, provisions for electronic reporting of performance test results, performance evaluation reports, compliance reports, and Notification of Compliance Status (NOCS) reports; and provisions to conduct periodic performance testing of oxidizers used to reduce emissions of organic hazardous air pollutants (HAP). **This final rule is effective on August 14, 2020. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of August 14, 2020.**

[Take of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Hampton Roads Bridge-Tunnel Expansion Project, Hampton-Norfolk, Virginia](#)

Published 8/10/2020

Reference ANSI

In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the Hampton Roads Connector Partners (HRCP) to incidentally harass, by Level A and Level B harassment, marine mammals during pile driving and removal activities associated with the Hampton Roads Bridge-Tunnel (HRBT) Expansion Project, Hampton-Norfolk, Virginia. **This Authorization is effective for one year from July 10, 2020 to July 9, 2021.**

[Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Marine Site Characterization Surveys](#)

Published 8/10/2020

Reference ANSI

NMFS has received a request from Ørsted Wind Power North America, LLC, (Ørsted) for authorization to take marine mammals incidental to high-resolution geophysical (HRG) survey activities in coastal waters from New York to Massachusetts in certain areas of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS). These areas are currently being leased by the Applicant's affiliates, Deepwater Wind New England, LLC, and Bay State Wind, LLC, respectively, and are identified as OCS-A 0486/0517, OCS-A 0487, and OCS-A 0500 (collectively referred to herein as the Lease Area). Ørsted is also planning to conduct marine site characterization surveys along one or more potential submarine export cable routes (ECRs) originating from the Lease Area and landing along the shore at locations from New York to Massachusetts, between Raritan Bay (part of the New York Bight) to Falmouth, Massachusetts. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take, by Level B harassment only, small numbers of marine mammals during the specified activities. NMFS is also requesting comments on a possible one-time one-year renewal that could be issued under certain circumstances and, if all requirements are met, as described in Request for

Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision. **Comments and information must be received no later than September 9, 2020.**

[National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing Residual Risk and Technology Review](#)

Published 8/12/2020

Reference ANSI, ASME, ASTM, NIST

This action finalizes the residual risk and technology review (RTR) conducted for the Miscellaneous Organic Chemical Manufacturing source category regulated under national emission standards for hazardous air pollutants (NESHAP). The U.S. Environmental Protection Agency (EPA) is finalizing decisions concerning the RTR, including amendments pursuant to the technology review for equipment leaks and heat exchange systems, and also amendments pursuant to the risk review to specifically address ethylene oxide emissions from storage tanks, process vents, and equipment leaks. In addition, we are taking final action to correct and clarify regulatory provisions related to emissions during periods of startup, shutdown, and malfunction (SSM), including removing general exemptions for periods of SSM, adding work practice standards for periods of SSM where appropriate, and clarifying regulatory provisions for certain vent control bypasses. The EPA is also taking final action to add monitoring and operational requirements for flares that control ethylene oxide emissions and flares used to control emissions from processes that produce olefins and polyolefins; add provisions for electronic reporting of performance test results and other reports; and include other technical corrections to improve consistency and clarity. We estimate that these final amendments will reduce hazardous air pollutants (HAP) emissions from this source category by approximately 107 tons per year (tpy) and reduce ethylene oxide emissions from this source category by approximately 0.76 tpy. We also estimate that these final amendments will reduce excess emissions of HAP from flares that control ethylene oxide emissions and flares used to control emissions from processes that produce olefins and polyolefins by an additional 263 tpy. **This final rule is effective on August 12, 2020. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of August 12, 2020.**

[Common Alloy Aluminum Sheet From Bahrain: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination](#)

Published 8/14/2020

Reference ASTM

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of common alloy aluminum sheet (aluminum sheet) from Bahrain. The period of investigation is January 1, 2019 to December 31, 2019. Interested parties are invited to comment on this preliminary determination.

Applicable August 14, 2020.

[Common Alloy Aluminum Sheet From Brazil: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination](#)

Published 8/14/2020

Reference ASTM

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of common alloy aluminum sheet (aluminum sheet) from Brazil for the period of investigation January 1, 2019 through December 31, 2019. Interested parties are invited to comment on this preliminary determination.

Applicable August 14, 2020.

[Common Alloy Aluminum Sheet From India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination](#)

Published 8/14/2020

Reference ASTM

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of common alloy aluminum sheet (aluminum sheet) from India. The period of investigation is January 1, 2019 through December 31, 2019. Interested parties are invited to comment on this preliminary determination.

Applicable August 14, 2020.

[Common Alloy Aluminum Sheet From The Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Determination of Critical Circumstances in Part, and Alignment of Final Determination With Final Antidumping Duty Determination](#)

Published 8/14/2020

Reference ASTM

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of common alloy aluminum sheet (aluminum sheet) from The Republic of Turkey (Turkey). The period of investigation is January 1, 2019 through December 31, 2019. Interested parties are invited to comment on this preliminary determination. **Applicable August 14, 2020.**

[National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products Residual Risk and Technology Review](#)

Published 8/13/2020

Reference ASTM, NIST

This action finalizes the residual risk and technology review (RTR) conducted for the Plywood and Composite Wood Products (PCWP) source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, the EPA is taking final action addressing periods of startup, shutdown and malfunction (SSM); adding electronic reporting; adding repeat emissions testing; and making technical and editorial changes. These final amendments include no revisions to the numerical emission limits in the rule based on the RTR. While the amendments do not result in reductions of emissions of hazardous air pollutants (HAP), this action results in improved monitoring, compliance, and implementation of the rule. **This final rule is effective on August 13, 2020. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of August 13, 2020. The incorporation by reference of certain other publications listed in the rule was approved by the Director of the Federal Register as of February 16, 2006.**

[Food Labeling; Gluten-Free Labeling of Fermented or Hydrolyzed Foods](#)

Published 8/13/2020

Reference ASTM

The Food and Drug Administration (FDA or we) is issuing a final rule to establish requirements concerning “gluten-free” labeling for foods that are fermented or hydrolyzed or that contain fermented or hydrolyzed ingredients. These requirements are needed to help ensure that individuals with celiac disease are not misled and receive truthful and accurate information with respect to fermented or hydrolyzed foods labeled as “gluten-free.” Currently, FDA knows of no scientifically valid analytical method effective in detecting and quantifying with precision the gluten protein content in fermented or hydrolyzed foods in terms of equivalent amounts of intact gluten proteins. Thus, we plan to evaluate compliance of such fermented or hydrolyzed foods that bear a “gluten-free” claim based on records that are made and kept by the manufacturer of the food bearing the “gluten-free” claim and made available to us for inspection and copying. The records need to provide adequate assurance that the food or ingredients used in the food are “gluten-free” before fermentation or hydrolysis. Once we identify that a scientifically valid method has been developed that can accurately detect and quantify gluten in fermented or hydrolyzed foods or ingredients, it would no longer be necessary for the manufacturer of foods bearing the “gluten-free” claim to make and keep these records. In addition, because currently there is no scientifically valid analytical method effective in detecting and quantifying the gluten protein content in fermented or hydrolyzed foods the final rule requires the manufacturer of these kinds of foods bearing the “gluten-free” claim to document that it has adequately evaluated the potential for gluten cross-contact and, if identified, that the manufacturer has implemented measures to prevent the introduction of gluten into the food during the manufacturing process. Likewise, the final rule requires manufacturers of foods that contain fermented or hydrolyzed ingredients and bear the “gluten-free” claim to make and keep records that demonstrate with adequate assurance that the fermented or hydrolyzed ingredients are “gluten-free” in compliance with the 2013 gluten-free food labeling final rule. Finally, this final rule states that we will evaluate compliance of distilled foods by verifying the absence of protein using scientifically valid analytical methods that can reliably detect the presence of protein or protein fragments in the distilled food. **This rule is effective October 13, 2020.**

[Service Details on Federal Reserve Actions To Support Interbank Settlement of Instant Payments](#)

Published 8/11/2020

Reference ISO

The Board of Governors of the Federal Reserve System (Board) has approved the FedNowSM Service as described in this announcement. The FedNow Service is a new interbank 24x7x365 real-time gross settlement service with clearing functionality to support instant payments in the United States. The new service will support banks' provision of end-to-end instant payment services and will provide infrastructure to promote ubiquitous, safe, and efficient instant payments in the United States. **Date: September 10, 2020.**

[Hazardous Materials: Notice of Actions on Special Permits](#)

Published 8/12/2020

Reference ISO

In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. **Comments must be received on or before September 11, 2020.**

[Hazardous Materials: Notice of Applications for New Special Permits](#)

Published 8/12/2020

Reference ISO

In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft. **Comments must be received on or before September 11, 2020.**

[Endangered and Threatened Wildlife; 12-Month Finding on a Petition To Identify the Northwest Atlantic Leatherback Turtle as a Distinct Population Segment and List It as Threatened Under the Endangered Species Act](#)

Published 8/10/2020

Reference NEMA

We, NMFS and USFWS, announce a 12-month finding on a petition to identify the Northwest Atlantic population of the leatherback turtle (*Dermochelys coriacea*) as a distinct population segment (DPS) and list it as threatened under the Endangered Species Act (ESA). In response to the petition, we completed a comprehensive status review of the species, which also constitutes the 5-year review of the species, to determine potential DPSs following the Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the ESA and to perform extinction risk analyses. Based on the best scientific and commercial data available, including the Status Review Report, and after taking into account efforts made to protect the species, we conclude that seven populations would meet the discreteness and significance criteria for recognition as DPSs, including the Northwest Atlantic population. However, even if we were to list them separately, all seven DPSs would meet the definition for endangered species (i.e., they are in danger of extinction throughout all or a significant portion of their range). The species is already listed as endangered throughout its range. We have determined that the listing of DPSs is not warranted, and therefore we do not propose any changes to the existing global listing. **This finding was made on August 10, 2020.**

[Fire Protection Program for Nuclear Power Plants During Decommissioning](#)

Published 8/11/2020

Reference NFPA

The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG-1370, "Fire Protection Program for Nuclear Power Plants During Decommissioning." This proposed revision of the guide (Revision 1) addresses new information identified since Revision 0 of this guide was issued. The guidance in Revision 0 of the regulatory guide (RG) does not include guidance for plants that have transitioned to the National Fire Protection Association (NFPA) Standard 805, "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants," 2001 Edition. This guide is being revised to include guidance for plants that have transitioned to NFPA 805, 2001 Edition. **Submit comments by October 13, 2020. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.**
