

**North Carolina Department of Labor
Occupational Safety and Health Division**

Raleigh, NC

Chapter 7
Subchapter 7F

CFR Revision 121D

Field Information System
**Updating National Consensus Standards
for Fire Protection in Shipyards
29 CFR 1915.501-.509**

Final Rule

A. **Discussion.**

When the federal OSHA standards for Fire Protection for Shipyard Employment were promulgated on September 14, 2004, it incorporated nineteen National Fire Protection Association (NFPA) standards by reference. Eleven of these standards have been updated since the original proposed rule was issued.

On October 17, 2006, federal OSHA issued a direct final rule to update National Consensus standards in OSHA's standards for fire protection in shipyard employment to reflect the updated NFPA standards. No adverse comments were received by the date specified in the direct final rule therefore the direct final rule became a final rule with a federal effective date of January 16, 2007.

B. **Action.**

The N.C. Commissioner of Labor adopted this final rule verbatim with an effective date of May 2, 2007. Refer to the October 17, 2006, *Federal Register* (Vol. 71, No. 200) for the details related to these requirements. The shipyard standards only apply to the public sector employees in North Carolina. (See 13 NCAC 7F.0501).

Signed on Original
Allen McNeely
Director

9/17/07
Date of Signature

N.C. Effective Date: May 2, 2007
NCAC Number: 13 NCAC 7F.0501

production activities that generate non-DPGR is \$2,000. Y has no other assets. Y has the following Federal income tax items relating to its non-PRS activities: * * *

(2) * * * Y has \$1,290 of gross income attributable to DPGR (\$3,000 DPGR (\$1,500 from PRS and \$1,500 from non-PRS activities)—\$1,710 CGS (\$810 from PRS and \$900 from non-PRS activities)). * * *

* * * * *
Example 2. * * * (i) *Partnership items of income, gain, loss, deduction or credit.* X and Y, unrelated United States corporations each of which is engaged in a trade or business, are partners in PRS, a partnership that engages in production activities that generate both DPGR and non-DPGR. Neither X nor Y is a member of an affiliated group. X and Y share all items of income, gain, loss, deduction, and credit 50% each. All of PRS's domestic production activities that generate DPGR are within Standard Industrial

Classification (SIC) Industry Group AAA (SIC AAA). All of PRS's production activities that generate non-DPGR are within SIC Industry Group BBB (SIC BBB). PRS is not able to specifically identify CGS allocable to DPGR and to non-DPGR and, therefore, apportions CGS to DPGR and non-DPGR based on its gross receipts. PRS incurs \$900 of research and experimentation expenses (R&E) that are deductible under section 174, \$300 of which are performed with respect to SIC AAA and \$600 of which are performed with respect to SIC BBB. None of the R&E is legally mandated R&E as described in § 1.861-17(a)(4) and none is included in CGS. PRS incurs section 162 selling expenses (that include W-2 wage expense) that are not includible in CGS and are definitely related to all of PRS's gross income. For 2006, PRS has the following Federal income tax items:

* * * * *

(iii) * * *

(B) * * * (1) For 2006, in addition to the activities of PRS, Y engages in domestic production activities that generate both DPGR and non-DPGR. With respect to those non-PRS activities, Y is not able to specifically identify CGS allocable to DPGR and to non-DPGR. In this case, because CGS is definitely related under the facts and circumstances to all of Y's non-PRS gross receipts, apportionment of CGS between DPGR and non-DPGR based on Y's non-PRS gross receipts is appropriate. For 2006, Y has the following non-PRS Federal income tax items: * * *

* * * * *

(3) * * *

DPGR (\$4,500 DPGR (\$1,500 from PRS and \$3,000 from non-PRS activities))	\$4,500
CGS (\$600 from sales of products by PRS and \$1,500 from non-PRS activities)	(2,100)
Section 162 selling expenses (including W-2 wages) (\$420 from PRS + \$540 from non-PRS activities) x (\$4,500 DPGR/\$9,000 total gross receipts)	(480)
Section 174 R&E-SIC AAA (\$150 from PRS and \$300 from non-PRS activities)	(450)
Section 174 R&E-SIC BBB (\$300 from PRS + \$450 from non-PRS activities) x (\$1,500 DPGR/\$6,000 total gross receipts allocated to SIC BBB (\$1,500 from PRS and \$4,500 from non-PRS activities))	(188)
Y's QPAI	1,282

* * * * *
 (h) * * * Except as provided in paragraph (i) of this section regarding qualifying in-kind partnerships and paragraph (j) of this section regarding EAG partnerships, an owner of a pass-thru entity is not treated as conducting the qualified production activities of the pass-thru entity, and vice versa. This rule applies to all partnerships, including partnerships that have elected out of subchapter K under section 761(a). Accordingly, if a partnership MPGE QPP within the United States, or produces a qualified film or produces utilities in the United States, and distributes or leases, rents, licenses, sells, exchanges, or otherwise disposes of such property to a partner who then, without performing its own qualifying MPGE or other production, leases, rents, licenses, sells, exchanges, or otherwise disposes of such property, then the partner's gross receipts from this latter lease, rental, license, sale, exchange, or other disposition are treated as non-DPGR. In addition, if a partner MPGE QPP within the United States, or produces a qualified film or produces utilities in the United States, and contributes or leases, rents, licenses, sells, exchanges, or otherwise disposes of such property to a partnership which then, without performing its own qualifying MPGE or other production, leases, rents, licenses, sells, exchanges, or otherwise disposes of such property,

then the partnership's gross receipts from this latter disposition are treated as non-DPGR.

* * * * *

Guy R. Traynor,
Federal Register Liaison, Legal Processing Division, Associate Chief Counsel (Procedure & Administration).
 [FR Doc. E6-22019 Filed 12-29-06; 8:45 am]
BILLING CODE 4830-01-P

DEPARTMENT OF LABOR
Occupational Safety and Health Administration
29 CFR Part 1915
[Docket No. S-051A]
RIN 1218-AC16
Updating National Consensus Standards in OSHA's Standard for Fire Protection in Shipyard Employment
AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.
ACTION: Final rule; confirmation of effective date.
SUMMARY: OSHA is confirming the effective date of its direct final rule for shipyards that incorporated by reference 19 National Fire Protection Association (NFPA) standards. The direct final rule

stated that it would become effective on January 16, 2007 unless significant adverse comment was received by November 16, 2006. No adverse comments were received. Therefore, the rule will become effective on January 16, 2007.

DATES: The direct final rule published on October 17, 2006 (71 FR 60843) is effective January 16, 2007. For the purpose of judicial review, OSHA considers January 3, 2007 as the date of issuance.

FOR FURTHER INFORMATION CONTACT:
Press Inquiries: Kevin Ropp, OSHA Office of Communications, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-1999.
General and technical information: Jim Maddux, Director, Office of Maritime, Directorate of Standards and Guidance, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-1968.

ADDRESSES: In compliance with 28 U.S.C. 2112(a), OSHA designates the Associate Solicitor for Occupational Safety and Health as the recipient of petitions for review of the final standard. The Associate Solicitor may be contacted at the Office of the Solicitor, Room S-4004, U.S. Department of Labor, 200 Constitution

Avenue, NW., Washington, DC 20210, telephone: (202) 693-5445.

SUPPLEMENTARY INFORMATION: This direct final rulemaking applies to shipyard employment as defined at 29 CFR 1915.4. It updates NFPA standards incorporated by reference in the shipyard fire protection standard (29 CFR Part 1915, Subpart P) issued by OSHA on September 15, 2004 by replacing the older versions of NFPA consensus standards with the most current versions (see 69 FR 55668).

On October 17, 2006, OSHA published a direct final rule in the **Federal Register** with a statement that the rule would go into effect unless a significant adverse comment was received within a specified period of time (see 71 FR 60843). An associated proposed rule was also published at the same time (see 71 FR 60932). In both the direct final rule and proposed rule notices, OSHA requested comments on all issues related to this action. OSHA received only one comment on the direct final rule, which supported the rulemaking. Since no adverse comments were received, the direct final rule will become effective on January 16, 2007.

As discussed in the October 17th direct final rule and the associated proposed rule, OSHA will not proceed with the proposed rule.

Authority and Signature

This document was prepared under the direction of Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order 5-2002 (67 FR 65008); and 29 CFR part 1911.

Signed at Washington, DC this 18th day of December, 2006.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor.

[FR Doc. E6-22189 Filed 12-29-06; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AK65

Filipino Veterans' Benefits Improvements

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA)

adjudication regulations to implement Public Law 108-183, the Veterans Benefits Act of 2003. This public law added service in the Philippine Scouts as qualifying service for payment of compensation, dependency and indemnity compensation (DIC), and monetary burial benefits at the full-dollar rate, and provided for payment of DIC at the full-dollar rate to survivors of certain veterans of the Philippine Commonwealth Army and recognized guerrilla forces who lawfully reside in the United States. This document adopts the interim final rule, which was published in the **Federal Register** on February 16, 2006 at 71 FR 8215, as a final rule with a technical correction.

DATES: *Effective Date:* This amendment is effective January 3, 2007.

FOR FURTHER INFORMATION CONTACT: Bill Russo, Chief, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington DC, 20420, (202) 273-7210.

SUPPLEMENTARY INFORMATION: On December 27, 2001, VA published an interim final rule in the **Federal Register** for notice and comment (66 FR 66763) amending VA adjudication regulations to reflect changes made by two public laws. First, Public Law 106-377, The Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 2001, changed the rate of compensation payments to certain veterans of the Philippine Commonwealth Army and recognized guerrilla forces who reside in the United States. Second, Public Law 106-419, the Veterans Benefits and Health Care Improvement Act of 2000, changed the amount of monetary burial benefits that VA will pay to survivors of certain veterans of the Philippine Commonwealth Army and recognized guerrilla forces who lawfully reside in the United States at death. On February 16, 2006, VA published in the **Federal Register** (71 FR 8215) a final rule adopting the interim final rule with changes and responding to public comments. Included with this final rule was an interim final rule that implemented Public Law 108-183 and solicited comments on these regulatory amendments only. Interested persons were invited to submit written comments on or before March 20, 2006. We did not receive any comments.

We are making one change to 38 CFR 3.42(c)(4)(ii) as a technical correction. We determined that there was an error in the text of the interim final rule, as published on February 16, 2006. Section

3.42(c)(4)(ii) incorrectly stated, "A Post Office box mailing address in the veteran's name does not constitute evidence showing that the veteran was lawfully residing in the United States on the date of death." The proof of residence requirements in § 3.42(c)(4) apply to both compensation benefits paid to veterans and dependency and indemnity compensation benefits paid to veterans' survivors, but the interim final rule in § 3.42(c)(4)(ii) incorrectly referred only to veterans. Moreover, the reference to "date of death" is incorrect; that criterion would only apply in a claim for full-dollar burial benefits under § 3.43. We are therefore correcting § 3.42(c)(4)(ii) to state, "A Post Office box mailing address in the veteran's name or the name of the veteran's survivor does not constitute evidence showing that the veteran or veteran's survivor is lawfully residing in the United States."

Based on the rationale stated in the interim final rule published on February 16, 2006, and in this document, the interim final rule is adopted as a final rule with a technical correction.

Paperwork Reduction Act

All collections of information under the Paperwork Reduction Act (44 U.S.C. 3501-3521) referenced in this final rule have existing OMB approval as a form under control number 2900-0655. No changes are made in this final rule to those collections of information.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, under 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Order classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if it meets any one of a number of

taxpayer's request for an equivalent hearing, if properly transmitted and addressed as provided in A-110 of this paragraph (i)(2).

Q-19. Is the one-year period within which a taxpayer must make a request for an equivalent hearing extended because the taxpayer resides outside the United States?

A-19. No. All taxpayers who want an equivalent hearing concerning the filing of the NFTL must request the hearing within the one-year period commencing the day after the end of the five-business-day period following the filing of the NFTL.

Q-110. Where must the written request for an equivalent hearing be sent?

A-110. The written request for an equivalent hearing must be sent, or hand delivered (if permitted), to the IRS office and address as directed on the CDP Notice. If the address of the issuing office does not appear on the CDP Notice, the taxpayer should obtain the address of the office to which the written request should be sent or hand delivered by calling, toll-free, 1-800-829-1040 and providing the taxpayer's identification number (e.g., SSN, ITIN or EIN).

Q-111. What will happen if the taxpayer does not request an equivalent hearing in writing within the one-year period commencing the day after the end of the five-business-day period following the filing of the NFTL?

A-111. If the taxpayer does not request an equivalent hearing with Appeals within the one-year period commencing the day after the end of the five-business-day period following the filing of the NFTL, the taxpayer foregoes the right to an equivalent hearing with respect to the unpaid tax and tax periods shown on the CDP Notice. A written request submitted within the one-year period that does not satisfy the requirements set forth in A-11(ii) of this paragraph (i)(2) is considered timely if the request is perfected within a reasonable period of time pursuant to A-11(iii) of this paragraph (i)(2). If a request for equivalent hearing is untimely, either because the request was not submitted within the one-year period or not perfected within the reasonable period provided, the equivalent hearing request will be denied. The taxpayer, however, may seek reconsideration by the IRS office collecting the tax, assistance from the National Taxpayer Advocate, or an administrative hearing before Appeals under its Collection Appeals Program or any successor program.

(j) *Effective date.* This section is applicable on or after November 16,

2006, with respect to requests made for CDP hearings or equivalent hearings on or after November 16, 2006.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: October 6, 2006.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E6-17140 Filed 10-16-06; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1915

[Docket No. S-051A]

RIN 1218-AC16

Updating National Consensus Standards in OSHA's Standard for Fire Protection in Shipyard Employment.

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Direct final rule.

SUMMARY: On September 15, 2004, the Occupational Safety and Health Administration (OSHA) promulgated a new fire protection rule for shipyard employment that incorporated by reference 19 National Fire Protection Association (NFPA) standards. Ten of those NFPA standards had been updated by NFPA since the fire protection rule was proposed and an additional NFPA standard has been updated since the final rule was published. In this direct final rule, OSHA is replacing the references to those eleven NFPA standards by adding the most recent versions.

DATES: This direct final rule will become effective on January 16, 2007 unless significant adverse comment is received by November 16, 2006. If significant adverse comment is received, OSHA will publish a timely withdrawal of this rule. The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of January 16, 2007.

Comments to this direct final rule must be submitted by the following dates: Hard copy: Your comments must be submitted (postmarked or sent) by November 16, 2006. Electronic transmission and facsimile: Your comments must be sent by November 16, 2006.

ADDRESSES: You may submit written comments to this direct final rule—identified by docket number S-051A or RIN number 1218-AC16—by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- OSHA Web site: <http://comments.osha.gov>. Follow the instructions for submitting comments on OSHA's web page.

- Fax: If your written comments are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693-1648.

- Regular mail, express delivery, hand delivery, and courier service: Submit three copies to the OSHA Docket Office, Docket No. S-051A, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-2625, Washington, DC 20210; telephone (202) 693-2350. (OSHA's TTY number is (877) 889-5627). OSHA Docket Office hours of operation are 8:15 a.m. to 4:45 p.m., EST.

FOR FURTHER INFORMATION: For general information and press inquiries, contact Kevin Ropp, Director, OSHA Office of Communications, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-1999. For technical inquiries, contact Jim Maddux, Director, Office of Maritime, Directorate of Standards and Guidance, Room N-3609, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-2086 or fax (202) 693-1663. Copies of this **Federal Register** notice are available from the OSHA Office of Publications, Room N-3101, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-1888. Electronic copies of this **Federal Register** notice, as well as news releases and other relevant documents, are available at OSHA's Web page at <http://www.osha.gov>.

For access to the docket to read background documents or comments received, go to <http://dockets.osha.gov>. Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance in using the Web page to locate docket submissions.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Request for Comment
- II. Direct Final Rulemaking
- III. Discussion of Changes
- IV. Legal Considerations
- V. Final Economic Analysis and Regulatory Flexibility Act Certification
- VI. Paperwork Reduction Act

- VII. Federalism
- VIII. State Plan States
- IX. Unfunded Mandates Reform Act
- X. List of Subjects for 29 CFR Part 1915
- XI. Authority and Signature

I. Request for Comment

OSHA requests comments on all issues related to this action. OSHA also welcomes comments on the Agency’s findings that there are not negative economic or other regulatory impacts of this action on the regulated community. If OSHA receives no significant adverse comment, OSHA will publish a **Federal Register** document confirming the effective date of this direct final rule and withdrawing the companion proposed rule published in the Proposed Rules section of today’s **Federal Register**. Such confirmation may include minor stylistic or technical changes to the document.

Comments received will be posted without change to <http://dockets.osha.gov>, including any personal information provided. OSHA cautions you about submitting personal information such as social security numbers and birth dates.

II. Direct Final Rulemaking

In direct final rulemaking, an agency publishes a final rule in the **Federal Register** with a statement that the rule will go into effect unless a significant adverse comment is received within a specified period of time. An identical proposed rule is often published at the same time. If no significant adverse comments are submitted, the rule goes into effect. If any significant adverse comments are received, the agency withdraws the direct final rule and treats the comments as responses to the proposed rule. Direct final rulemaking is used where an agency anticipates that a rule will not be controversial. Examples include minor substantive changes to regulations updating incorporated references to the latest edition of national consensus standards, and

direct incorporations of mandates from new legislation.

For purposes of this direct final rulemaking, a significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule’s underlying premise or approach. In determining whether a comment necessitates withdrawal of the direct final rule, OSHA will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. A comment recommending additional changes will not be considered a significant adverse comment unless the comment states why the direct final rule would be ineffective without the addition. If a timely significant adverse comment is received, the Agency will publish a notice of significant adverse comment in the **Federal Register** withdrawing this direct final rule no later than January 16, 2007.

OSHA is also publishing today a companion proposed rule, which is identical to this direct final rule. In the event the direct final rule is withdrawn because of significant adverse comment, OSHA intends to proceed with the rulemaking by addressing the comment(s) and publishing a new final rule. If a significant adverse comment is received regarding certain revisions included in this direct final rule, but not others, OSHA may (1) Finalize those changes that did not receive significant adverse comment, and (2) conduct further rulemaking under the companion proposed rule for the changes that did receive significant adverse comment. The comment period for the proposed rule runs concurrently with that of the direct final rule. Any comments received under the companion proposed rule will be treated as comments regarding the direct final rule. Likewise, significant adverse comments submitted to the direct final rule will be considered as comments to

the companion proposed rule; the Agency will consider such comments in developing a subsequent final rule.

OSHA has determined that the subject of this rulemaking is suitable for direct final rulemaking. This direct final rule will enhance OSHA’s fire protection in shipyard standard by adding the most current NFPA consensus standards to the OSHA standard. OSHA’s changes will benefit the safety of employees by requiring employers to comply with the newer standards, which may be even more protective than the older standards. Furthermore, OSHA’s changes will not result in additional compliance costs. OSHA does not anticipate any objections to this direct final rule.

III. Discussion of Changes

On September 15, 2004, OSHA issued a new fire protection final rule for shipyard employment that incorporated by reference 19 National Fire Protection Association (NFPA) standards (69 FR 55667). The purpose of this direct final rule is to add ten recently updated NFPA standards to the standard for fire protection in shipyard employment. The 10 NFPA standards are new versions of 11 NFPA standards currently in OSHA’s standard. The reason there are only 10 is because the NFPA combined two of its standards, NFPA 11–1998 and NFPA 11A–1999, into the NFPA 11–2002 standard covering foam fire extinguishing systems. This direct final rule replaces the 11 older NFPA standards with the 10 newer NFPA standards.

Table I lists the older NFPA standards incorporated by reference in the fire protection in shipyard employment standard, and lists the sections in the standard in which these NFPA standards are referenced. It also lists the latest versions of the NFPA standards to be added to the standard for fire protection in shipyard employment through this direct final rule.

TABLE I

Section	Paragraph	NFPA standards incorporated by reference in 29 CFR part 1915	Latest version of NFPA standard
1915.505 Fire Response.	(e)(3)(v)	NFPA 1981–1997 Standard on Open-Circuit Self-Contained Breathing Apparatus for the Fire Service.	NFPA 1981–2002 Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire and Emergency Services (Ex. 1–1).
1915.507 Land-side fire protection systems.	(b)(1), (b)(2)	NFPA 10–1998 Standard for Portable Fire Extinguishers.	NFPA 10–2002 Standard for Portable Fire Extinguishers (Ex. 1–2).
	(c)(6)	NFPA 72–1999 National Fire Alarm Code	NFPA 72–2002 National Fire Alarm Code (Ex. 1–3).
	(b)(2), (d)(1)	NFPA 14–2000 Standard for the Installation of Standpipe, Private Hydrant, and Hose Systems.	NFPA 14–2003 Standard for the Installation of Standpipe and Hose Systems (Ex. 1–4).
	(d)(2)	NFPA 13–1999 Standard for the Installation of Sprinkler Systems.	NFPA 13–2002 Standard for the Installation of Sprinkler Systems (Ex. 1–5).

TABLE I—Continued

Section	Paragraph	NFPA standards incorporated by reference in 29 CFR part 1915	Latest version of NFPA standard
	(d)(3)	NFPA 750–2000 Standard on Water Mist Fire Protection Systems. NFPA 11–1998 Standard for Low-Expansion Foam.	NFPA 750–2003 Standard on Water Mist Fire Protection Systems (Ex. 1–6). NFPA 11–2005 Standard for Low-, Medium-, and High-Expansion Foam (Ex. 1–7).
	(d)(5)	NFPA 11A–1999 Standard for Medium- and High-Expansion Foam Systems. NFPA 12A–1997 Standard on Halon 1301 Fire Extinguishing Systems. NFPA 2001–2000 Standard on Clean Agent Fire Extinguishing Systems. NFPA 12–2000 Standard on Carbon Dioxide Extinguishing Systems.	NFPA 12A–2004 Standard on Halon 1301 Fire Extinguishing Systems (Ex. 1–8). NFPA 2001–2004 Standard on Clean Agent Fire Extinguishing Systems (Ex. 1–9). NFPA 12–2005 Standard on Carbon Dioxide Extinguishing Systems.

OSHA has examined the latest versions of the NFPA standards and compared them with the versions currently referenced in the fire protection in shipyard employment standard. OSHA finds that the latest versions are as protective on the whole, and in certain ways more protective, than the earlier versions of the same NFPA standards. The latest versions are also more comprehensive than the earlier versions and reflect recent developments in safety technology, equipment, and testing. The changes to the NFPA standards include:

- *Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire and Emergency Services*—NFPA 1981–2002 has been revised to add requirements for heads-up displays (HUD) that provide the user of a self-contained breathing apparatus (SCBA) with information regarding breathing air supply status, alert the user when the breathing air supply is at 50 percent of full, and, where the HUD is powered by battery power source, warn the user when the HUD only has 2 more hours of battery power. The updated standard also includes new requirements for a Rapid Intervention Company/Crew (RIC) Universal Air Connection (UAC) (or RIC UAC) on all new SCBA. The RIC UAC is a standard connection device that allows a rescue breathing air supply to be joined to the SCBA of a victim, fire fighter or other emergency services responder to replenish the breathing air in the SCBA breathing air cylinder when the victim cannot be rapidly moved to a safe atmosphere. (Ex. 1–1).

- *Standard for Low-, Medium-, and High-Expansion Foam*—NFPA 11–2005 has been revised to combine the older NFPA 11 low-expansion foam system requirements with the older NFPA 11A medium- and high-expansion foam provisions. (Ex. 1–7).

- *Standard for Portable Fire Extinguishers*—NFPA 10–2002 has been revised to prohibit “extended wand-

type” discharge devices on Class K—fire extinguishers manufactured after 01/01/2002. (Class “K” extinguishers are used for “combustible cooking media” fire hazards in commercial kitchens.) The new version of NFPA 10 allows the use of electronic equipment to monitor the status of portable fire extinguishers an alternative that may be more effective and efficient than manual monitoring (Ex. 1–2).

- *National Fire Alarm Code*—NFPA 72–2002 has been updated to revise fire alarm power supply requirements, to improve the survivability of fire alarms from attack by fire, and to improve the “supervising stations” used in larger fire alarm systems. (Ex. 1–3).

- *Standard for the Installation of Sprinkler Systems*—NFPA 13–2002 has been updated to add the sprinkler installation requirements found in other NFPA standards, to include criteria for solid shelf storage areas, and to make the standard easier for users to reference. (Ex. 1–5).

The remaining NFPA standards have been updated to make minor technical and editorial changes and to improve readability by formatting them into a standard layout.

IV. Legal Considerations

The purpose of the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.*, is “to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources.” 29 U.S.C. 651(b). To achieve this goal, Congress authorized the Secretary of Labor to promulgate and enforce occupational safety and health standards. 29 U.S.C. 655(b), 654(b). A safety or health standard is a standard “which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of

employment.” 29 U.S.C. 652(8). A standard is reasonably necessary or appropriate within the meaning of section 652(8) if, among other things, a significant risk of material harm exists in the workplace and the proposed standard would substantially reduce or eliminate that workplace risk.

This direct final rule, which addresses the hazard of fire in shipyard employment, may enhance the employee protections currently in place through incorporated references to NFPA consensus standards. In its final rule on fire protection in shipyard employment, OSHA discussed injuries and fatalities that may result from fire hazards in shipyards, and the potential for reducing those injuries and deaths through adoption of the final standard (69 FR 55668, 55669, 55699). Because this direct final rule simply updates the NFPA standards incorporated by reference in OSHA’s fire protection standard to their most recent versions, it is unnecessary to determine significant risk, or the extent to which the direct final rule would reduce that risk, as would typically be required by *Industrial Union Department, AFL-CIO v. American Petroleum Institute*, 448 U.S. 607 (1980).

V. Final Economic Analysis and Regulatory Flexibility Act Certification

This action is not economically significant within the context of Executive Order 12866, or a “major rule” under the Unfunded Mandates Reform Act or Section 801 of the Small Business Regulatory Enforcement Fairness Act. The rulemaking would impose no additional costs on any private or public sector entity, and does not meet any of the criteria for an economically significant or major rule specified by the Executive Order or relevant statutes.

This action simply includes updated references to NFPA standards. The Agency compared the older versions of

the NFPA standards with the new versions via side-by-side analyses. Based on our findings, the Agency concludes that incorporating the new versions of the NFPA standards will not impose any additional costs on any private or public sector entity.

Furthermore, because the rule imposes no additional costs on employers, OSHA certifies that it would not have a significant impact on a substantial number of small entities. Accordingly, the Agency need not prepare a final regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

VI. Paperwork Reduction Act

This action does not impose new information collection requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–30.

VII. Federalism

OSHA has reviewed this direct final rule in accordance with the Executive Order on Federalism (Executive Order 13132, 64 FR 43255, August 10, 1999), which requires that agencies, to the extent possible, refrain from limiting State policy options, consult with States prior to taking any actions that would restrict State policy options, and take such actions only when there is clear constitutional authority and the presence of a problem of national scope. Executive Order 13132 provides for preemption of State law only if there is a clear congressional intent for the Agency to do so. Any such preemption is to be limited to the extent possible.

Section 18 of the OSH Act (29 U.S.C. 651 *et seq.*) expresses Congress' intent to preempt State laws where OSHA has promulgated occupational safety and health standards. Under the OSH Act, a State can avoid preemption on issues covered by Federal standards only if it submits, and obtains Federal approval of, a plan for the development of such standards and their enforcement (State-Plan State). 29 U.S.C. 667. Occupational safety and health standards developed by such State-Plan States must, among other things, be at least as effective in providing safe and healthful employment and places of employment as the Federal standards. Subject to these requirements, State-Plan States are free to develop and enforce under State law their own requirements for safety and health standards.

This direct final rule complies with Executive Order 13132. As Congress has expressed a clear intent for OSHA standards to preempt State job safety and health rules in areas addressed by OSHA standards in States without OSHA-approved State Plans, this rule

limits State policy options in the same manner as all OSHA standards. In States with OSHA-approved State Plans, this action does not significantly limit State policy options.

VIII. State Plan States

The 26 States or U.S. Territories with their own OSHA approved occupational safety and health plans must revise their standards to reflect this final standard or show OSHA why there is no need for action, *e.g.*, because an existing state standard covering this area is already "at least as effective as" the new Federal standard. The state standard must be at least as effective as this final standard, must be applicable to both the private and public (State and local government employees) sectors, and must be completed within six months of the publication date of this final Federal rule.

Currently only five States (California, Minnesota, Oregon, Vermont, and Washington) with their own State plans cover private sector onshore maritime activities in whole or in part. Federal OSHA enforces maritime standards offshore in all States and provides onshore coverage of maritime activities in Federal OSHA States, in the five States above, to the extent not covered by them, and in all the other State Plan States: Alaska, Arizona, Connecticut (plan covers only State and local government employees), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Nevada, New Jersey (plan covers only State and local government employees), New Mexico, New York (plan covers only State and local government employees), North Carolina, Puerto Rico, South Carolina, Tennessee, Utah, Virginia, Virgin Islands (plan covers only territorial government employees), and Wyoming.

IX. Unfunded Mandates Reform Act

This direct final rule has been reviewed in accordance with the Unfunded Mandates Reform Act of 1995 (UMRA). 2 U.S.C. 1501 *et seq.* For the purposes of the UMRA, the Agency certifies that this direct final rule does not impose any Federal mandate that may result in increased expenditures by State, local, or tribal governments, or increased expenditures by the private sector, of more than \$100 million in any year.

X. List of Subjects for 29 CFR Part 1915

Fire protection, Hazardous substances, Incorporation by reference, Longshore and harbor workers, Occupational safety and health, Reporting and recordkeeping requirements, Shipyards, and Vessels.

XI. Authority and Signature

This document was prepared under the direction of Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order 5–2002, and 29 CFR Part 1911.

Signed at Washington, DC, this 5th day of October, 2006.

Edwin G. Foulke, Jr.,
Assistant Secretary of Labor.

Amendments To Standards

■ OSHA amends Part 1915 of Title 29 of the Code of Federal Regulations as set forth below:

■ 1. The authority citation for Part 1915 continues to read as follows:

Authority: Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); secs. 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), or 5–2002 (67 FR 65008) as applicable; 29 CFR Part 1911.

■ 2. Amend § 1915.5 to revise paragraphs (d)(4)(i), (vi) through (x), and (xiii) through (xviii) and by removing paragraph (d)(4)(xix) to read as follows:

§ 1915.5 Incorporation by reference.

* * * * *

(d) * * *

(4) * * *

(i) NFPA 1981–2002 Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire and Emergency Services, IBR approved for 1915.505(e)(3)(v).

* * * * *

(vi) NFPA 10–2002 Standard for Portable Fire Extinguishers, IBR approved for §§ 1915.507(b)(1) and (b)(2).

(vii) NFPA 14–2003 Standard for the Installation of Standpipe and Hose Systems, IBR approved for §§ 1915.507(b)(2) and (d)(1).

(viii) NFPA 72–2002 National Fire Alarm Code, IBR approved for § 1915.507(c)(6).

(ix) NFPA 13–2002 Standard for the Installation of Sprinkler Systems, IBR approved for § 1915.507(d)(2).

(x) NFPA 750–2003 Standard on Water Mist Fire Protection Systems, IBR approved for § 1915.507(d)(2).

* * * * *

(xiii) NFPA 11–2005 Standard for Low-, Medium-, and High-Expansion

Foam, IBR approved for § 1915.507(d)(3).

(xiv) NFPA 17–2002, Standard for Dry Chemical Extinguishing Systems, IBR approved for § 1915.507(d)(4).

(xv) NFPA 12–2005, Standard on Carbon Dioxide Extinguishing Systems, IBR approved for § 1915.507(d)(5).

(xvi) NFPA 12A–2004, Standard on Halon 1301 Fire Extinguishing Systems, IBR approved for § 1915.507(d)(5).

(xvii) NFPA 2001–2004, Standard on Clean Agent Fire Extinguishing Systems, IBR approved for § 1915.507(d)(5).

(xviii) NFPA 1403–2002, Standard on Live Fire Training Evolutions, IBR approved for § 1915.508(d)(8).

■ 3. Amend § 1915.505 to revise paragraph (e)(3)(v) to read as follows:

§ 1915.505 Fire response.

* * * * *

(e) * * *

(3) * * *

(v) Provide only SCBA that meet the requirements of NFPA 1981–2002

Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire and Emergency Services (incorporated by reference, see § 1915.5); and

* * * * *

■ 4. Amend § 1915.507 to revise paragraphs (b)(1), (b)(2), (c)(6), (d)(1), (d)(2), (d)(3), and (d)(5) to read as follows:

§ 1915.507 Land-side fire protection system.

* * * * *

(b) * * *

(1) The employer must select, install, inspect, maintain, and test all portable fire extinguishers according to NFPA 10–2002 Standard for Portable Fire Extinguishers (incorporated by reference, see § 1915.5).

(2) The employer is permitted to use Class II or Class III hose systems, in accordance with NFPA 10–2002 (incorporated by reference, see § 1915.5), as portable fire extinguishers if the employer selects, installs, inspects, maintains, and tests those systems according to the specific recommendations in NFPA 14–2003 Standard for the Installation of Standpipe and Hose Systems (incorporated by reference, see § 1915.5).

(c) * * *

(6) Select, install, inspect, maintain, and test all automatic fire detection systems and emergency alarms according to NFPA 72–2002 National Fire Alarm Code (incorporated by reference, see § 1915.5)

(d) * * *

(1) Standpipe and hose systems according to NFPA 14–2003 Standard

for the Installation of Standpipe and Hose Systems (incorporated by reference, see § 1915.5);

(2) Automatic sprinkler systems according to NFPA 25–2002 Standard for the Inspection, Testing, and Maintenance of Water-based Fire Protection Systems, (incorporated by reference, see § 1915.5), and either (i) NFPA 13–2002 Standard for the Installation of Sprinkler Systems (incorporated by reference, see § 1915.5), or (ii) NFPA 750–2003 Standard on Water Mist Fire Protection Systems (incorporated by reference, see § 1915.5);

(3) Fixed extinguishing systems that use water or foam as the extinguishing agent according to NFPA 15–2001 Standard for Water Spray Fixed Systems for Fire Protection (incorporated by reference, see § 1915.5) and NFPA 11–2005 Standard for Low-, Medium-, and High-Expansion Foam (incorporated by reference, see § 1915.5);

* * * * *

(5) Fixed extinguishing systems using gas as the extinguishing agent according to NFPA 12–2005 Standard on Carbon Dioxide Extinguishing Systems (incorporated by reference, see § 1915.5); NFPA 12A–2004 Standard on Halon 1301 Fire Extinguishing Systems (incorporated by reference, see § 1915.5); and NFPA 2001–2004 Standard on Clean Agent Fire Extinguishing Systems (incorporated by reference, see § 1915.5).

[FR Doc. E6–17124 Filed 10–16–06; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 224

RIN–1510–AB08

Federal Process Agents of Surety Corporations

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: The Financial Management Service (FMS) is revising its regulation governing the appointment of Federal process agents of surety corporations to allow for the appointment of a state official as a process agent. We are also revising the regulation by removing the requirement that all surety corporations appoint a process agent in the District of Columbia, regardless of whether the surety corporation provides bonds in the District of Columbia. Finally, we are

updating obsolete contact information and references in the regulation.

DATES: This rule is effective on October 17, 2006.

FOR FURTHER INFORMATION CONTACT: Rose M. Miller, Manager, Surety Bond Branch, at 202–874–6850 or rose.miller@fms.treas.gov; or William Erle, Senior Counsel, at 202–874–6680 or william.erle@fms.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

31 U.S.C. 9306 was amended November 29, 1999 to allow a surety corporation to appoint a State official as its process agent. This means that surety corporations conducting business in more than one judicial district in a state can appoint a State official to receive service of process on the corporation, thereby saving surety corporations from having to appoint an agent in each judicial district of that State. Prior to the amendment, a surety did not have the option of appointing a State official as its process agent to satisfy the service of process requirement. This revised rule makes the regulation at 31 CFR Part 224 consistent with 31 U.S.C. 9306 by providing for the appointment of State officials as process agents.

An additional change relates to the requirement currently found in 31 CFR 224.2(a)(3) which requires that an agent be appointed for service of process “in the District of Columbia where the bond is returnable and filed.” This requirement applies to all surety corporations whether or not the corporation contemplates the writing of bonds in favor of the United States to be undertaken within the District of Columbia. Requiring companies to appoint an agent in the District of Columbia, when they are not incorporated in the District of Columbia, and do not write bonds in the District of Columbia, is an unnecessary financial burden on the companies. FMS can see no benefit to the Federal government in maintaining this requirement since, as a matter of practice, Federal bonds are not necessarily returnable and filed in the District of Columbia. The revised rule eliminates this requirement.

The sample power of attorney form currently found in 31 CFR 224.4 is replaced with a reference to the Surety Bond Branch Web page. Moving the form to the Web page will allow the sample power of attorney form to be updated more easily. Also, it will provide surety corporations with easy access to an electronic version of the form.