

EXHIBIT 60

From: Saunders, Mary H.
Sent: Fri 4/27/2012 6:11 AM (GMT -7)
To: Carl Malamud
Cc:
Bcc:
Subject: RE: Downloading the SIBR database contents

Carl, thanks again for sharing your comments on the data in our SIBR database. What follows is a somewhat long response, but one that I hope is valuable to you. I would be happy to organize a phone discussion for you with SCO staff about the SIBR database. Would also be happy to chat separately with you at your convenience.

As you noted in your review, the database contains various types of references contained in the CFR, not only nongovernment standards. More about this below.

With respect to the currency of the information compared to the latest version of the CFR, the database is not intended to be a real-time index of what is in the CFR. It does not represent any specific CFR citation as it may be on a particular day other than the day that a specific record was "verified" as identified in the database. To date, the database contains around 14,000 data records that have been identified as an incorporation by reference at some point in time. The range of review of data to be incorporated into the database runs from 2001 through 2011. The most recent complete review, in 2011, focused on correcting and updating earlier data entries. Currently, the focus is on updating the database when new rulemaking activities change the CFR. The review process is dynamic and the database's content changes almost daily as the review/audit process proceeds.

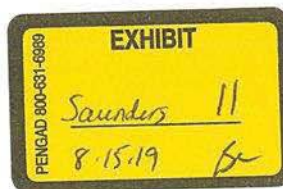
You noted that several entries in the SIBR database contain the letters "NDG", or No Date Given, in the "Edition" column. NIST uses the acronym in the database when the text found in a specific paragraph of the CFR references a voluntary consensus standard (VCS) without citing a specific edition of the standard. Some confusion may occur when NIST uses the acronym "NDG" for a specific standard in one SIBR record while it cites the specific edition of the standard in another related record from the same agency, such as in the case identified in your Public.Resources.org comments to the OFR. This is not an error. It is and has been NIST's practice to cite regulatory language exactly as it appears in the text of each specific CFR citation and to not make assumptions about what a regulatory agency intended in its regulation.

For example, when NIST compiled the initial inventory of standards incorporated by reference, the Mine Safety and Health Administration (MSHA) referenced the National Fire Protection Association's (NFPA) National Electric Code (NFPA 70) in 30 CFR 57.12048 without citing a specific edition. "NDG" appears in the "Edition" column for that record. However, NIST also found other MSHA references to NFPA 70 that identified a specific edition. For example, in paragraph 30 CFR 75.513-1, MSHA references the 1968 edition of NFPA 70. In this record, "1968" appears in the edition column. NIST cannot speculate that the non-dated incorporation refers to, or is intended to refer to, the 1968 edition of NFPA 70 referenced in the dated incorporation. That intent, or interpretation, is up to the regulatory agency promulgating the regulation. The format and manner in which SIBRs are identified in the CFR is an individual agency decision.

One purpose of the SIBR database is to help agencies identify inconsistencies or other incorporation by reference issues so that each agency can address such issues through its standards management program. NIST conducted its initial inventory in 2002 and identified many inconsistencies. At that time, agency standards executives were provided with Excel spreadsheets containing the reference records for their review. As agencies continue to review and update their regulations in the CFR, NIST will continue to review and update its SIBR database. In doing so, NIST will cite regulatory language exactly as it appears in a specific CFR citation and will leave the interpretation of specific regulatory language and the choice of presentation format up to each agency incorporating a VCS or other document by reference.

You also noted that there are entries in the SIBR database that cite agency incorporations of other sections of the CFR. These are not errors. The four examples that you cited refer to FCC and FEMA regulations that are referenced (used) by FCC and HUD. These references, and many others like them, are listed in the database to identify where government unique standards (an agency's own or other agency regulations) are incorporated. In one of examples that you cited, HUD makes reference in 24 CFR 200.926d(c)(4) to FEMA's National Flood Insurance Program standards found at 44 CFR Part 60. Here, HUD is "using" a government unique FEMA standard for a purpose specific to its regulatory authority.

In addition to cross-references or incorporations in the CFR such as those above, there are many Federal Specifications, Military Specifications, and other Federal GSA Standard documents cited in the CFR by various agencies. Many of these



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have been withdrawn, replaced, or updated by the issuing agency BUT NOT by the "using" agency. The references will be retained in the database until the using agency reviews and revises its regulations in the CFR.

Finally, you note that you identified five BSI standards referenced in the CFR while the SIBR database only identified two. This is likely due to the fact that NIST's periodic review has not yet captured the additional three references. We'll take a closer look at this specific case and update the database.

Best, Mary

-----Original Message-----

From: Carl Malamud [mailto:carl@media.org]
Sent: Saturday, April 21, 2012 3:55 PM
To: Saunders, Mary H.
Subject: Re: Downloading the SIBR database contents

Hi Mary -

I've postponed my trip to DCC until June. Happy to do a phone call before then if you'd like to chat.

I was wondering when the last time you did an audit of your SIBR database? I'm finding an awful lot of errors. Some of them are really obvious. For example, your database includes a lot of entries where sections of the CFR are purportedly incorporated by reference into the CFR. A few examples:

Federal Communications Commission	47 CFR 80.1061	Special requirements for 406.0-406.1 MHz EPIRB stations
NDG FCC	47 CFR 80.1101(c)(5)(iv)	
Federal Communications Commission	47 CFR 80.1063	Special requirements for INMARSAT-E EPIRB stations
NDG FCC	47 CFR 80.1101(c)(11)(v)	
Federal Emergency Management Agency	44 CFR 60	National Flood Insurance Program
CFR 200.926d(c)(4)		NDG HUD/HC 24
Federal Emergency Management Agency	44 CFR 60	National Flood Insurance Program
CFR 200.926d(c)(4)(iv)(A)(3)		NDG HUD/HC 24

I'm also finding a lot of references to FedSpec and FedStd documents. Amazingly enough, the government doesn't appear to have many of these documents available anyplace and in quite a few cases, they don't appear to be available anywhere.

A third set of errors have to do with how current the database is. I found two standards from British Standards Institute listed in your database, but I've found 5 standards from that body that are incorporated into the CFR. Is it possible you're a couple years out of date?

Keeping the database scrubbed and up-to-date doesn't seem like that hard a task. Maybe I'm underestimating the amount of work involved.

Let me know if you'd like to chat.

Best regards,

Carl