

**Office of the Federal Register**

**§51.11**

EFFECTIVE DATE NOTE: At 79 FR 66278, Nov. 7, 2014, §51.7 was amended by revising paragraph (a), effective Jan. 6, 2015. For the convenience of the user, the revised text is set forth as follows:

**§51.7 What publications are eligible?**

- (a) A publication is eligible for incorporation by reference under 5 U.S.C. 552(a) if it—
  - (1) Conforms to the policy stated in §51.1;
  - (2)(i) Is published data, criteria, standards, specifications, techniques, illustrations, or similar material; and
    - (ii) Does not detract from the usefulness of the FEDERAL REGISTER publication system; and
  - (3) Is reasonably available to and usable by the class of persons affected. In determining whether a publication is usable, the Director will consider—
    - (i) The completeness and ease of handling of the publication; and
    - (ii) Whether it is bound, numbered, and organized, as applicable.

\* \* \* \* \*

**§51.9 What is the proper language of incorporation?**

- (a) The language incorporating a publication by reference shall be as precise and complete as possible and shall make it clear that the incorporation by reference is intended and completed by the final rule document in which it appears.
- (b) The language incorporating a publication by reference is precise and complete if it—
  - (1) Uses the words “incorporated by reference;”
  - (2) States the title, date, edition, author, publisher, and identification number of the publication;
  - (3) Informs the user that the incorporated publication is a requirement;
  - (4) Makes an official showing that the publication is in fact available by stating where and how copies may be examined and readily obtained with maximum convenience to the user; and
  - (5) Refers to 5 U.S.C. 552(a).
- (c) If the Director approves a publication for incorporation by reference, the agency must—

- (1) Include the following under the DATES caption of the preamble to the final rule document (See 1 CFR 18.12 *Preamble requirements*):

The incorporation by reference of certain publications listed in the regulations is ap-

proved by the Director of the Federal Register as of \_\_\_\_\_.

- (2) Includes the term “incorporation by reference” in the list of index terms (See 1 CFR 18.20 *Identification of subjects in agency regulations*).

EFFECTIVE DATE NOTE: At 79 FR 66278, Nov. 7, 2014, §51.9 was amended by revising paragraphs (a) and (c), effective Jan. 6, 2015. For the convenience of the user, the revised text is set forth as follows:

**§51.9 What is the proper language of incorporation?**

- (a) The language incorporating a publication by reference must be precise, complete, and clearly state that the incorporation by reference is intended and completed by the final rule document in which it appears.

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- (c) If the Director approves a publication for incorporation by reference in a final rule, the agency must include—

- (1) The following language under the DATES caption of the preamble to the final rule document (See 1 CFR 18.12 *Preamble requirements*):

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of \_\_\_\_\_.

- (2) The preamble requirements set out in 51.5(b).

- (3) The term “incorporation by reference” in the list of index terms (See 1 CFR 18.20 *Identification of subjects in agency regulations*).

**§51.11 How does an agency change or remove an approved incorporation?**

- (a) An agency that seeks approval for a change to a publication that is approved for incorporation by reference must—

- (1) Publish notice of the change in the FEDERAL REGISTER and amend the Code of Federal Regulations;

- (2) Ensure that a copy of the amendment or revision is on file at the Office of the Federal Register; and

- (3) Notify the Director of the Federal Register in writing that the change is being made.

- (b) If a regulation containing an incorporation by reference fails to become effective or is removed from the Code of Federal Regulations, the agency must notify the Director of the Federal Register in writing of that fact