



July 24, 2023

Lifesaving and Fire Safety Division (CG-ENG-4)
U.S. Coast Guard
U.S. Department of Homeland Security
Martin Luther King Avenue SE
Washington, DC 20593

Via regulations.gov

Re: Comments of the International Code Council on the Proposed Revised Regulations Associated with the Approval, Carriage, and Maintenance of Certain Safety Equipment Required Onboard Vessels and Offshore Units or Facilities; Docket No. USCG–2020–0519

The International Code Council (ICC) is a nonprofit organization – driven by the engagement of its more than 63,000 members – dedicated to helping communities and the building industry provide safe, resilient, and sustainable construction through the development and use of model codes (I-Codes) and standards used in design, construction, and compliance processes. Most U.S. states and communities, federal agencies, and many global markets choose the I-Codes to set the standards for regulating construction and major renovations, plumbing and sanitation, fire prevention, and energy conservation in the built environment.

The International Accreditation Service (IAS), a member of the ICC family of solutions, is a nonprofit, public-benefit corporation that has been providing accreditation services since 1975. IAS accredits a wide range of companies and organizations including governmental entities, commercial businesses, and professional associations. IAS accreditation programs are based on recognized national and international standards that ensure domestic and global acceptance of its accreditations. IAS is one of just three accreditation bodies (ABs) authorized by the Environmental Protection Agency (EPA) to accredit WaterSense product certifying bodies.¹

As one of the leading accreditation bodies in the United States, IAS is a signatory to the primary international organizations that form a unified system for evaluating and recognizing competent accreditation bodies worldwide, including the Asia Pacific Accreditation Cooperation (APAC), International Accreditation Forum (IAF), and International Laboratory Accreditation Cooperation (ILAC). These organizations are identified as “cooperations” because they have agreed to cooperate with one another by adhering to a common set of accreditation criteria and to undergo periodic onsite evaluation to determine ongoing compliance with ISO/IEC Standard 17011, *General Requirements for accreditation bodies accrediting conformity assessment bodies* (CABs). Being a “signatory” means that an accreditation body has been evaluated onsite at its offices, a sampling of the assessments of its accredited entities have been witnessed by peer experts, and that it has been found to comply with international requirements.

These organizations agree to recognize the equivalence of accreditations granted by other signatory member accreditation bodies through a series of Mutual (or Multilateral) Recognition Arrangements (MRAs/MLAs). Once an accreditation body becomes a signatory it is obligated to recognize the certificates or reports issued by conformity assessment bodies accredited by all other signatories within a specified scope.

¹ <https://www.epa.gov/watersense/accreditation-licensed-certifying-bodies>.

The Code Council appreciates the opportunity to provide comments on the proposed revised U.S. Coast Guard (USCG) regulations regarding the approval, carriage, and maintenance of certain safety equipment required onboard vessels and offshore units of facilities.

The Code Council supports the proposed removal of the sentence “Pipe that is to be used for potable water must bear the appropriate certification mark of a nationally-recognized, ANSI-accredited third-party certification laboratory,” from 46 CFR § 56.60–25(a)(4). However, we encourage the USCG to make the following amendment to section 46 CFR § 56.60–25(a)(7):

“Pipe that is to be used for potable water must bear the appropriate certification mark of a nationally recognized, ~~ANSI-accredited~~ third-party certification laboratory, accredited by an accreditation entity domiciled in the United States that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement (ILAC MRA) or equivalent.”

The Coast Guard’s explicitly naming the American National Standards Institute (ANSI) as the sole accreditation service for laboratory certifiers provides ANSI with a monopoly for accreditation services within the scope of this regulation. Such an approach runs counter to President Biden’s Executive Order on Promoting Competition in the American Economy, which states: “a whole-of-government approach is necessary to address overconcentration, monopolization, and unfair competition in the American economy . . . Agencies can and should further the policies set forth in section 1 of this order by, among other things, adopting pro-competitive regulations and approaches to procurement and spending, and by rescinding regulations that create unnecessary barriers to entry that stifle competition.”²

The Code Council’s proposed edit would address the anti-competitive concerns the current regulation raises by substituting in a neutral reference to accreditation bodies “accredited by an accreditation entity domiciled in the United States that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement (ILAC MRA) or equivalent.” This change would expand the opportunity for other U.S.-based ABs to provide services in this sector so long as those ABs meet the stringent requirements of the ILAC MRA. Doing so would align the Coast Guard’s regulations with existing Coast Guard policy concerning third party laboratories, which recognizes laboratory “accreditation from an accreditation body who is a full member of the International Laboratory Accreditation Cooperation (ILAC),”³ as well as other Coast Guard regulations concerning independent laboratories that require “accreditation from an accreditation body that is a full member of the International Laboratory Accreditation Cooperation (ILAC).”⁴ It would also align the Coast Guard’s regulations with similar

² Exec. Order No. 14036, 86 Fed. Reg. 36,987 (July 9, 2021), *available at* <https://www.federalregister.gov/documents/2021/07/14/2021-15069/promoting-competition-in-the-american-economy>.

³ <https://www.dco.uscg.mil/CG-ENG-4/IndyLab/>.

⁴ 46 C.F.R. § 159.010-3 (2023).

approaches taken by several other federal agencies and departments, including the Consumer Product Safety Commission (CPSC),⁵ Department of Energy,⁶ EPA,⁷ and the Federal Highway Administration (FHWA).⁸

We strongly encourage USCG to adopt the neutral accreditation language that ICC has proposed, which would advance Executive Order 14036 and ensure regulatory consistency with USGC policy as well as existing regulations adopted by USCG and other federal agencies.

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Thank you for the opportunity to provide comments. If you have any questions concerning the Code Council's recommendations, please do not hesitate to contact me.

Sincerely,

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⁵ 16 C.F.R. § 1112.3 (2023) (Defining an “accreditation body” for the purposes of CPSC regulations as “an entity that . . . [i]s a signatory to the International Laboratory Accreditation Cooperation–Mutual Recognition Arrangement”).

⁶ 10 C.F.R. § 430.25 (2023) (lamp testing “must be conducted by test laboratories accredited by an Accreditation Body that is a signatory member to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA)”).

⁷ 40 C.F.R. § 60.5473 (2023) (“approved test laboratories” for central heater certification testing under the Clean Air Act (CAA) must be accredited “by an accreditation body that is a full member signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement”); *see also* 40 C.F.R. § 60.531 (establishing similar requirements for third party laboratory testing of wood stoves under the CAA); 40 C.F.R. § 770.7 (establishing similar requirements for third party laboratory testing under the Toxic Substances Control Act).

⁸ 23 C.F.R. § 637.209 (2023) (“laboratories that perform crash testing for acceptance of roadside hardware by the FHWA shall be accredited by a laboratory accreditation body that . . . is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA).”)