

## THE FIRE PROTECTION IMPROVEMENT AND CORRECTION ACT OF 2005

### **BACKGROUND**

The Occupational Safety and Health Administration (OSHA) fire safety standards have not been updated since they were adopted in the early 1970s, even though fire-suppression technology has progressed dramatically since that time. OSHA has acknowledged that these standards need to be reviewed and updated, but to date has refused to do so, citing a lack of resources and other priorities.

In the early 1990s, industry, including the National Marine Manufacturers Association (NMMA) and American Composite Manufacturers Association (ACMA), approached OSHA and asked that the fire safety standards be updated. OSHA encouraged industry to work with the National Fire Protection Association (NFPA) to have it evaluate composite manufacturing operations and determine if the hazards from these operations warranted a change to the safety standards.

NFPA revised its standards in 1996 by creating a separate chapter to address the specific hazards and requirements with regard to applying resin in the manufacture of recreational boats and other fiberglass composite products. NFPA created this separate chapter based on extensive testing that included measuring the level of concentration of flammable vapor in a spray-booth and several years of evaluation within the NFPA committee. NFPA ultimately concluded that the new standards were appropriate for the protection of workers as well as the manufacturing facility.

### **ISSUE**

Upon completion of the new NFPA safety standard, industry returned to OSHA in the late 1990s requesting that the Agency update its standards. In fact, OSHA included this change in 1999 in its update to the unified agenda, a document published by federal agencies outlining rulemakings they have or are preparing to undertake, but rescinded the effort in 2001, citing "resource constraints and other priorities." Prior to the rescission, however, OSHA called this rule "one of OSHA's most complex and out-of-date rules." Yet even with this acknowledgement, OSHA has been unable—or unwilling—to correct it.

Because the regulatory track has stalled, NMMA is now aggressively pursuing a legislative remedy for these anachronistic standards. NMMA has worked closely with industry allies and Members of Congress to introduce and build Congressional support for H.R. 3255, the Fire Protection Improvement and Correction Act of 2005. H.R. 3255 simply directs OSHA to update its Fire Safety Regulation to reflect the current NFPA standards. OSHA will have six months to amend the rule if this legislation is enacted into law.

### **INDUSTRY IMPACT**

The current, outdated fire safety standards place an undue burden on the recreational marine industry. These standards, which have not reflected fire safety technologies developed over the last three decades, cost boat manufacturers time and money, mostly because many state OSHA agencies and local fire departments refer to the federal OSHA standards when enforcing local fire code or worker safety regulations. There have been countless cases in the boating industry where a state OSHA office cited a boat builder for not complying with the 1910.107 standards even though the plants were in compliance with the updated NFPA fire safety standards, which are inarguably more appropriate. It takes a great deal of time and resources, including attorney's fees, to rectify the situation. The expended costs and continuing operational costs do not create a safer working environment, and symbolize one of the main reasons manufacturing continues to struggle in the United States—onerous, unnecessary regulatory burdens.

It is a great challenge and burden on manufacturers, and particularly small businesses, to comply with the complex regulations imposed on them today by local, state, and federal governments. When a regulatory agency has a rule on the books that it and the industry know to be outdated, something needs to be done to fix it.

### **ACTION NEEDED**

Please urge your Members of Congress to co-sponsor H.R. 3255 and support its passage in order to compel the Occupational Health and Safety Administration to do the right thing and update a regulation that even the Agency acknowledges no longer makes any sense.