

I. Executive Summary

At the direction of Congress, the Department of Commerce completed a five-month study of the Fastener Quality Act (FQA) and recommends Congress amend the Act.

The FQA was passed in 1990 because a number of incidents of mismarked, substandard, and/or counterfeit fasteners were uncovered that posed a threat to public safety and a risk of equipment and infrastructure failures in both the civilian and military sectors. After several years of discussion with the manufacturers and users of fasteners, the National Institute of Standards and Technology (NIST) published regulations concerning the Act on September 26, 1996. Those regulations became effective on November 25, 1996, and were to apply to fasteners manufactured on or after May 26, 1997. The implementation date for the regulations was subsequently extended three times because there were not enough accredited laboratories to conduct the inspection and testing required by the Act. On August 14, 1998, President Clinton signed Public Law 105-234, which delayed implementation of the regulations until June 1, 1999 or 120 days after the Secretary of Commerce submits this report to Congress, whichever is later.

Public Law 105-234 directed the Department to recommend changes in the Act that may be warranted based on changes in fastener manufacturing technology and the existence of other regulatory programs covering fasteners. The Department also considered (1) whether fastener problems may represent a current threat to public safety, (2) whether imported fasteners pose the same threat as they were perceived to 10 years ago, (3) how the military and other federal agencies have improved their procurement practices since 1990, and (4) concerns expressed by industry about the Act as written.

The Department published a Federal Register notice on October 7, 1998 requesting information from the public on all relevant issues. More than 600 pages of comments were received from 137 individuals and organizations. The American Society of Mechanical Engineers (ASME) conducted a three-day workshop for the Department November 9-11, 1998 in Chicago, Illinois to document how fastener manufacturing technology has changed since 1990. Representatives from 63 industrial companies from the United States, Canada, and Europe, as well as 7 government agencies and 9 non-profit universities and associations attended the workshop. Staff of the Defense Industrial Supply Center (DISC), the National Highway Traffic Safety Administration (NHTSA), the Federal Aviation Administration (FAA), and the National Aeronautics and Space Administration (NASA) supplied substantial information directly to the Department on either documented problems related to fasteners in programs that regulate public safety or improvements in fastener procurement practices made over the past decade.

After analysis of all available information, weighing significant advances made by industry in the manufacture of fasteners, and assessing public safety needs, if Congress determines that it is appropriate to continue to regulate fasteners, the Department recommends that Congress amend the Act to limit its application to fasteners where public safety may remain a problem. The Department recommends application of the Act be limited to "high strength" fasteners, the paperwork burdens be streamlined, the Act be amended to recognize quality management systems in manufacturing and provide simpler compliance requirements for those manufacturers using quality management systems of sufficient rigor and consistency, and amend Title 18 of the United States Code by adding a criminal penalty for fraudulent activity in commercial transactions involving fasteners. The intent of these changes is to have a statute that recognizes the positive developments in the fastener industry, focuses on assuring public safety, and imposes the least possible burden on industry.