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CIRCULAR NO. A-119 Revised

February 10, 1998

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities

Revised OMB CircularA-119 establishes policies on Federal use and development of voluntary consensus standards and on conformity assessment activities. Pub. L. 104-113, the "National Technology Transfer and Advancement Act of 1995," codified existing policies in A-119, established reporting requirements, and authorized the National Institute of Standards and Technology to coordinate conformity assessment activities of the agencies. OMB is issuing this revision of the Circular in order to make the terminology of the Ci

- c. How does this policy affect my agency's regulatory authorities and responsibilities?
- d. How does this policy affect my agency's procurement authority?
- e. What are the goals of agency use of voluntary consensus standards?
- f. What considerations should my agency make when it is considering using a standard?
- g. Does this policy establish a preference between consensus and non-consensus standards that are developed in the private sector?
- h. Does this policy establish a preference between domestic and international voluntary consensus standards?
- i. Should my agency give preference to performance standards?
- j. How should my agency reference voluntary consensus standards?
- k. What if no voluntary consensus standard exists?
- l. How may my agency identify voluntary consensus standards?

7. What Is The Policy For Federal Participation In Voluntary Consensus Standards Bodies?

- a. What are the purposes of agency participation?
- b. What are the general principles that apply to agency support?
- c. What forms of support may my agency provide?
- d. Must agency participants be authorized?
- e. Does agency participation indicate endorsement of any decisions reached by voluntary consensus standards bodies?
- f. Do agency representatives participate equally with other members?
- g. Are there any limitations on participation by agency representatives?
- h. Are there any limits on the number of federal par

d. Further the policy of reliance upon the private sector to supply Government needs for goods and services.

WHAT DEFINITIONS OF STANDARDS

3. What Is A Standard?

a. The term "standard," or "technical standard" as cited in the Act, includes all of the following:

(1) Common and repeated use of rules, conditions, guidelines or characteristics for products or related processes and production methods, and related management systems practices.

any executive department, independent commission, board, bureau, office, agency, Government-owned or controlled corporation or other establishment of the Federal Government. It also includes any regulatory commission or board, except for independent regulatory commissions insofar as they are subject to separate statutory requirements regarding the use of voluntary consensus standards. It does not include the legislative or judicial branches of the Federal Government.

6. What Is The Policy For Federal Use Of Standards?

All federal agencies must use voluntary consensus standards in lieu of government-unique standards in their procurement and regulatory activities, except where inconsistent with law or otherwise impractical. In these circumstances, your agency must submit a report describing the reason(s) for its use of government-unique standards in lieu of voluntary consensus standards to the Office of Management and Budget (OMB) through the National Institute of Standards and Technology (NIST).

a. When must my agency use voluntary consensus standards?

Your agency must use voluntary consensus standards, both domestic and international, in its regulatory and procurement activities in lieu of government-unique standards, unless use of such standards would be inconsistent with applicable law or otherwise impractical. In all cases, your agency has the discretion to decline to use existing voluntary consensus standards if your agency determines that such standards are inconsistent with applicable law or otherwise impractical.

(1) "Use" means incorporation of a standard in whole, in part, or by reference for procurement purposes, and the inclusion of a standard in whole, in part, or by reference in regulation(s).

(2) "Impractical" includes circumstances in which such use would fail to serve the agency's program needs; would be infeasible; would be inadequate, ineffectual, inefficient, or inconsistent with agency mission; or would impose more burdens, or would be less useful, than the use of another standard.

b. What must my agency do when such use is determined by my agency to be inconsistent with applicable law or otherwise impractical?

The head of your agency must transmit to the Office of Management and Budget (OMB), through the National Institute of Standards and Technology (NIST), an explanation of the reason(s) for using government-unique standards in lieu of voluntary consensus standards. For more information on reporting, see section 9.

c. How does this policy affect my agency's regulatory authorities and responsibilities?

This policy does not preempt or restrict agencies' authorities and responsibilities to make regulatory decisions authorized by statute. Such regulatory authorities and responsibilities include determining the level of acceptable risk; setting the level of protection; and balancing risk, cost, and availability of technology in establishing regulatory standards. However, to determine whether established regulatory limits or targets have been met, agencies should use voluntary consensus standards for test methods, sampling procedures, or protocols.

d. How does this policy affect my agency's procurement authority?

This policy does not preempt or restrict agencies' authorities and responsibilities to identify the capabilities that they need to obtain through procurements. Rather, this policy limits an agency's authority to pursue an identified capability through reliance on a government-unique standard when a voluntary consensus standard exists (see Section 6a).

e. What are the goals of agency use of voluntary consensus standards?

Agencies should recognize the positive contribution of standards development and related activities. When properly conducted, standards development can increase productivity and efficiency in Government and industry, expand opportunities for international trade, conserve resources, improve health and safety, and protect the environment.

f. What considerations should my agency make when it is considering using a standard?

When considering using a standard, your agency should take full account of the effect of using the standard on the economy, and of applicable federal laws and policies, including laws and regulations relating to antitrust, national security, small business, product safety, environment, metrication, technology development, and conflicts of interest. Your agency should also recognize that use of standards, if improperly conducted, can suppress free and fair competition; impede innovation and technical progress; exclude safer or less expensive products; or otherwise adversely affect trade, commerce, health, or safety. If your agency is proposing to incorporate a standard into a proposed or final rulemaking, your agency must comply with the "Principles of Regulation" (enumerated in Section 1(b)) and with the other analB 1(i)8.9 compa prod10.2ta.8(Su)3aons

non-consensus standard developed in the private sector as a means of establishing testing methods in a regulation and to choose among commercial-off-the-shelf products, regardless of whether the underlying standards are developed by voluntary consensus standards bodies or not.

h. Does this policy establish a preference between domestic and international voluntary consensus standards?

This policy does not establish a preference between domestic and international voluntary consensus standards. However, in the interests of promoting trade and implementing the provisions of international treaty agreements, your agency should consider international standards in procurement and regulatory applications.

i. Should my agency give preference to performance standards?

In using voluntary consensus standards, your agency should give preference to performance standards when such standards may reasonably be used in lieu of prescriptive standards.

j. How should my agency reference voluntary consensus standards?

Your agency should reference voluntary consensus standards, along with sources of availability, in appropriate publications, regulatory orders, and related internal documents. In regulations, the reference must include the date of issuance. For all other uses, your agency must determine the most appropriate form of reference, which may exclude the date of issuance as long as users are elsewhere directed to the latest issue. If a voluntary standard is used and published in an agency document, your agency must observe and protect the rights of the copyright holder and any other similar obligations.

k. What if no voluntary consensus standard exists?

In cases where no voluntary consensus standards exist, an agency may use government-unique standards (in addition to other standards, see Section 6g) and is not required to file a report on its use of government-unique standards. As explained above (see Section 6a), an agency may use government-unique standards in lieu of voluntary consensus standards if the use of such standards would be inconsistent with applicable law or otherwise impractical; in such cases, the agency must file a report under Section 9a regarding its use of government-unique standards.

l. How may my agency identify voluntary consensus standards?

Your agency may identify voluntary consensus standards through databases of standards maintained by the National Institute of Standards and Technology (NIST), or by other organizations including voluntary consensus standards bodies, other federal agencies, or standards publishing companies.

7. What Is The Policy For Federal Participation In Voluntary Consensus Standards Bodies?

Agencies must consult with voluntary consensus standards bodies, both domestic and international, and must participate with such bodies in the development of voluntary consensus standards when consultation and participation is in the public interest and is compatible with their missions, authorities, priorities, and budget resources.

a. What are the purposes of agency participation?

Agency representatives should participate in voluntary consensus standards activities in order to accomplish the following purposes:

- (1) Eliminate the necessity for development or maintenance of separate Government-unique standards.
- (2) Further such national goals and objectives as increased use of the metric system of measurement; use of environmentally sound and energy efficient materials, products, systems, services, or practices; and improvement of public health and safety.

b. What are the general principles that apply to agency support?

Agency support provided to a voluntary consensus standards activity must be limited to that which clearly

a. Promotes the following goals:

- (1) Effective use of agency resources and participation.
- (2) The development of agency positions that are in the public interest and that do not conflict with each other.
- (3) The development of agency positions that are consistent with administration policy.