

## Background:

The Office of Management and Budget (OMB) request comments on proposed revisions to Circular A-119, “Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities” (hereinafter, Circular A-119, or, the Circular) in light of changes that have taken place in the world of regulation, standards, and conformity assessment since the Circular was last revised in 1998. These materials are available at [http://www.whitehouse.gov/omb/inforeg\\_infopoltech](http://www.whitehouse.gov/omb/inforeg_infopoltech).

The National Technology Transfer and Advancement Act of 1995 ([Pub. L. 104-113](#)); hereinafter known as the NTTAA) codified pre-existing policies on the development and use of voluntary consensus standards in Circular A-119, established additional reporting requirements for agencies, and authorized the National Institute of Standards and Technology (NIST) to coordinate conformity assessment activities. In response, OMB in 1998 issued a revised version of Circular A-119, which remains the current version.

In this notice, OMB is seeking public comment on proposed revisions to the Circular. These proposed revisions reflect the experience gained by U. S. agencies in implementing the Circular since 1998; domestic and international developments in regulatory, standards, and conformity assessment policy; concluding and implementing U.S. trade agreements; and comments received in response to OMB's March 2012 Request for Information on whether and how to supplement Circular A-119.

The proposed revision to Circular A-119 includes the following elements:

*Preference for voluntary consensus standards.* The revised Circular would maintain a strong preference for using voluntary consensus standards in Federal regulation and procurement. It would also acknowledge, however, that there may be some standards not developed using a consensus-driven process that are in use in the market—particularly in the information technology space—and that may be relevant (and necessary) in meeting agency missions and priorities.

*Guidance on use of standards and participation in standards development.* The revised Circular would provide more detailed guidance on how Federal representatives should participate in standards development activities. It would also strengthen the role of agency Standards Executives, encourage better internal coordination and training on standards, and update the provisions on how the U.S. Government manages and reports on the development and use of standards. The Circular would also provide criteria for agencies to consider when examining whether a standard meets agency needs and should be adopted.

*Guidance on conformity assessment.* The revised Circular would encourage agencies to consider international conformity assessment schemes and private sector conformity assessment activities in lieu of conformity assessment activities or schemes developed or carried out by the government, and set out criteria for agencies to consider when they are selecting or designing an appropriate conformity assessment procedure.

*Enhanced transparency.* The proposed revisions would provide guidance to agencies on how they should discuss implementation of the Circular in their rulemakings and guidance documents; encourage agencies to alert the public when considering whether to participate in standards development activities; and set out factors for agencies to consider when incorporating standards by reference in regulation.

*Burden reduction.* The proposed revisions would require agencies to utilize the retrospective review mechanism set out in Executive Orders 13563 and 13610 to implement the Circular, including ensuring that standards incorporated by reference in regulation are updated on a timely basis. The revisions also encourage agencies to work together to reference the same version of a standard in regulation and procurements and coordinate on conformity assessment requirements, where feasible.

*International considerations.* The proposed revisions incorporate references to trade-related statutory obligations on standards-related measures and direct Federal agencies to consult with USTR on how to comply with international obligations with regard to standards and conformity assessment. They provide guidance on how to identify such obligations, direct agencies to take into account their obligations under [Executive Order 13609](#) when they engage in standards and conformity assessment activities, and encourage greater coordination with respect to the Government's formulation of global strategies on standards, regulation, and international trade.

Please see <https://www.federalregister.gov/articles/2014/02/11/2014-02891/request-for-comments-on-a-proposed-revision-of-omb-circular-no-a-119-federal-participation-in-the> for further information.