



Standards
Coordination
Office

National Institute of Standards
and Technology

OMB Circular A-119:

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

Proposed Revisions

OMB Circular A-119

- Guidance to U.S. federal agencies from the Office of Management and Budget (OMB) in support of the National Technology Transfer and Advancement Act (NTTAA) – Public Law 104-113
- Provides agencies with guidance on
 - Use of voluntary consensus standards in lieu of government unique standards
 - Participation in standards development activities
- Directs NIST to issue guidance on conformity assessment
- Broad in scope - applies to regulatory activities, procurement activities, and programs
- Last issued in 1998

Timeline

- 1995 – Public Law 104-113: NTTAA
 - 1998 - [OMB Circular A-119](#) (Current Version)
 - 2000 – NIST Conformity Assessment Guidelines
- February 2012 - OMB Request for Information (RFI)
- April 2012 – NIST Public Workshop on Federal Conformity Assessment
- May 2012 – Public Workshop (hosted at NIST)
- February 2014 – [OMB Proposed Revisions Published](#) – **Subject of this discussion.**

OMB to Host Public Workshop
April 30, 2014

NIST Standards Coordination Office is
Coordinating NIST Comments

**Public Comment
Due Date
May 12, 2014**

Factors Influencing The Revisions

- Experience gained by agencies in using the Circular since 1998
- Domestic and international developments in regulations, standards and conformity assessment policy, and concluding and implementing U.S. trade agreements
- Issuance of three recent Executive Orders addressing
 - Need for improved regulatory review of regulations
 - Reducing regulatory burdens on the regulated
 - Promoting regulatory cooperation
- Issuance of White House memo outlining principles for agency engagement in standards activities
- Comments received by OMB during the RFI

Key Revision Themes

- Agency use of **voluntary consensus standards**
- Agency use of other types of standards
- Agency participation in standards development activities
- Conformity assessment
- International considerations
- Enhanced transparency
- Burden reduction

Let's take a look at specific issues related to these themes.

Preference for Use of Voluntary Consensus Standards

- The proposed revised Circular continues preference for use of existing **voluntary consensus standards** over government unique standards where feasible (*unless inconsistent with law or otherwise impractical*)
 - Review attributes of and rationale for use of voluntary consensus standards – see next 2 slides
- It further specifies the preference for use of voluntary consensus standards over other types of standards, including **voluntary non-consensus standards**
- Allows agencies to consider other types of standards if no voluntary consensus standards are deemed suitable to meet the missions and priorities of the agency

Review Attributes of a Voluntary Consensus Standard

Focus on the process used to develop the standards:

Openness

Balance of
Interests/Representation*

Due Process

Appeals Process

Consensus

Standards developed in a process that does not include all of these attributes are newly referred to as voluntary non-consensus standards.

Review Benefits of Using Voluntary Consensus Standards

Reduce costs

Encourage growth
and competition

Promote
efficiency

Increase reliance on
private sector

Establishment of standards
that serve national needs

Reasonable Availability of the Standard

- The proposed revised Circular provides **criteria** for agencies to consider when examining if a standard meets agency needs and should be adopted, including whether the standard is “**reasonably available**”.
- Reaffirms that federal agencies must respect SDO copyright
- Where accessibility of standards content is desired by agency...

“...the agency should work with the relevant standards developer to promote the availability of the materials, such as through the use of technological solutions, low-cost-publication, or other appropriate means, while respecting the copyright owner’s interest in protecting its intellectual property”

Timely Updating of Standards

- Agencies should utilize retrospective review mechanism (addressed in recent Executive Orders) to update standards on a timely basis
- Agencies should undertake a standards specific review of standards incorporated by reference (SIBR) **every 3 to 5 years** or when it is necessary due to urgent matters of health, safety, the need to keep up with technological changes or other compelling reasons

Advice on Agency Participation in Standards Development

- Further guidance is provide on how federal representatives should participate in the standards development activities
 - Must be authorized by their agency
 - May serve on Board

....active agency technical and leadership participation in standards activities is encouraged...

....actively and on an equal basis with other members...

Enhanced Transparency

- Agencies should advise the public
 - when participating in or planning to participate in standards development activities
 - when considering use of voluntary standards in regulation, procurement or other programs
- Various options noted
 - Notice in Federal Register
 - Notice on public website
 - RFI
 - Advanced NPRM

Complying with International Obligations

- Revisions direct federal agencies to consult with USTR and State Department on how to comply with international trade (e.g., WTO Agreement) and other international obligations relating to standards and conformity assessment.

Use of International Standards

“For certain types of standards and regulations and where certain conditions apply, the United States is obligated to use relevant international standards under international trade agreements to which the United States is a party.”

- WTO TBT Agreement Article 2.4 is referenced.
- New **Annex A**: *WTO TBT Decision of the Committee on Principles for Development of International Standards*
- Agencies should consult with USTR when determining if a voluntary standards body is “International”.

Conformity Assessment

- Expanded guidance on conformity assessment is included.
 - Agencies should consider the level of confidence needed, the risks associated with non-compliance, and the costs of demonstrating conformity
 - Agencies should consider **international conformity assessment schemes** and **private sector conformity assessment activities** in conjunction with or in lieu of government conformity assessment activities
 - Provides criteria for selecting conformity assessment procedures, including consulting with NIST and OMB

And.....

Conformity Assessment (continued)

- Agencies should also consult with USTR on relevant international commitments for conformity assessment
- Agencies should integrate meaningful review of conformity assessment procedures into agency retrospective review plans on a periodic basis

Note: NIST will revisit its Conformity Assessment Guidance once the Circular is finalized.

Additional Agency Guidance

- Encourages Greater Role for Interagency Committee on Standards Policy (ICSP)
- Strengthens Role of Agency Standards Executives
 - Includes qualifications for Standards Executives
 - Senior level official
 - Knowledge/experience
- Updates Agency Reporting Requirements (via NIST) on Development and Use of Standards

Next Steps

- OMB to host Public Workshop on April 30, 2014
- NIST SCO to Coordinate NIST Comments

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- NIST to review and revise the NIST Conformity Assessment Guidance document if needed.

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