



Committee on Technical Barriers to Trade

FACTORS U.S. FEDERAL AGENCIES CONSIDER WHEN DECIDING TO USE A STANDARD

COMMUNICATION FROM THE UNITED STATES

The following communication, dated 8 November 2019, is being circulated at the request of the delegation of the United States.

Office of Management and Budget (OMB) Circular A-119¹, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities" outlines factors U.S. federal agencies should consider when deciding to use standards:

1. Whether the standard is effective and otherwise suitable for meeting agency regulatory, procurement, or program needs, including as applicable:
 - a. The nature of the agency's statutory mandate and the consistency of the standard with that mandate;
 - b. The level of protection the standard provides or is expected to provide for public health, welfare, safety, and the environment;
 - c. The clarity and detail of the standard's language, as the wording of a standard may contain too much detail as well as too little;
 - d. The costs and benefits of implementing other available standards that may also meet the agency's needs;
 - e. The costs and benefits to the Federal government and the regulated public of the agency developing its own standard;
 - f. The ongoing use of the standard by other agencies for the same or a similar requirement, the use of which in a particular instance would increase consistency across the Federal government;
 - g. The ongoing use of the standard by State and local governments for the same or a similar requirement, the use of which in a particular instance would increase consistency across jurisdictions;
 - h. The prevalence of the use of the standard in the national and international marketplaces;
 - i. The problems addressed by the standard and changes in the state of knowledge and technology since the standard was prepared or last revised;

¹ The full text of the Office of Management and Budget (OMB) Circular A-119 is available here: https://www.nist.gov/sites/default/files/revise_d_circular_a-119_as_of_01-22-2016.pdf.

- j. The extent to which the standard establishes performance rather than design criteria, where feasible;
 - k. The ability of small- and medium-sized enterprises (SMEs) to comply with the standard; and
 - l. The agency's ability to use, and enforce compliance with, the standard in its regulatory process.
2. The extent to which, when preparing the standard, the standards body reflected the attributes of a voluntary consensus standards body. The procedures related to these attributes (e.g., openness, balance, due process, appeals process, and consensus) should be easily accessible, clear and unambiguous. (Voluntary Consensus Standards are defined in Section 2.d and 2.e of OMB A-119.)
3. The extent to which the standard is an international standard (see Section 5h of OMB A-119).
4. Any barriers to membership and participation in the standards development process, given that fee structures, modes of participation, and other factors can impact the ability of SMEs, public interest groups, and the general public to participate.
5. Whether the standard is "reasonably available." (See Section 5f of OMB A-119 for additional information.)
6. The standards maintenance process used by the relevant standards developing body or bodies.
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