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May 9, 2014

The Honorable Howard Shelanski
Administrator
Office of Information and Regulatory Affairs
U.S. Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

RE: Comment to Proposed Revisions to OMB Circular A-119: Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities

Dear Administrator Shelanski:

We are pleased to provide the following input on the proposed revisions to OMB Circular A-119.

We applaud the efforts of the OMB in the revision of Circular A-119 to promote the use by federal agencies of voluntary consensus standards, over voluntary standards. GEC and its EPEAT program have supported and participated in the development of voluntary consensus standards that define environmentally preferable electronic products. Our experience with these stakeholder processes leads to our suggestions for improvement in the proposed revision language. Our suggestions focus on the definition of “voluntary consensus standard bodies” as included on pages 18 and 19.

Note that the critical importance of the language in this definition is called out in a statement in the Circular: “The use of voluntary consensus standards is preferred because voluntary consensus standards are developed using processes which provide for openness, a balance of representation, due process, appeals, and consensus decision-making.” (p. 24) Based on this statement, it is vital that the definition does, in fact, “provide for” those five qualities.

However, our view is that the definition provides for some but not all of those qualities. The definition appears to make openness and due process required while balance and consensus are only advisory and their definitions are less definitive. It uses directive words for openness and due process – “are open” and “shall include” – and advisory words for balance and consensus – “should” and “may be defined as”.

We recommend that equal weight be given to all four of these qualities, as well as appeals. We therefore recommend the following revision to the definition, with proposed additions highlighted in red and underlined:

- f. "Voluntary consensus standards bodies" are associations, organizations, bodies, or technical societies that plan, develop, establish, or coordinate voluntary consensus standards using agreed-upon procedures. A voluntary consensus standards development process includes the following attributes or elements:
 - i. Openness: The procedures or processes used are open on a non-discriminatory basis to interested parties, and such parties are provided meaningful opportunities to participate at all stages of standards development. The procedures or processes for participating in standards development and for developing the standard are transparent;
 - ii. Balance of representation: The standards development process ~~should~~ shall have a balance of representation relevant to the subject matter of the standard. The representation appropriate to the development of consensus in any given standards activity is a function of the nature of the standard being developed and the sector.
 - iii. Due process: Due process shall include adequate notice of meetings, sufficient time to review drafts and prepare views and objections, full access to the views and objections of other participants, and a fair and impartial process for resolving conflicting views;
 - iv. Appeals process; and
 - v. Consensus, ~~which may~~ shall be defined as general agreement, but not necessarily unanimity. During the development of consensus, comments and objections are considered using fair, impartial, open, and transparent processes.

This is especially important in the world of environmental standards. Further on the Circular recognizes some of the distinctive attributes of environmental, as well and health and safety, standards, when it addresses the use of multiple standards:

“For example, in the areas of health, safety, and environmental protection, it may be preferable for an agency to allow the use of only one standard.” (p. 29)

We recognize that in development of purely technical standards it may be very difficult, and not necessarily beneficial, to assure fully balanced and inclusive representation. For this reason we have recommended inclusion of the text “relevant to the subject matter of the standard”, which will give the standard development organization considerable flexibility in applying the principle of balance.

For the credibility of environmental standards, and to assure that they properly reflect the perspective and will of civil society, and to assure that financially interested stakeholders do not dominate the process, it is essential, even though often difficult, to assure that a balance of all stakeholder interests is involved during all stages of standard development.

I am pleased to answer any questions you may have.

Regards,



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