



AMERICAN
HIGH-PERFORMANCE
BUILDINGS COALITION

May 12, 2014

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

submitted via <http://www.regulations.gov>

Re: Request for Comments on Proposed Revision of OMB Circular A-119,
Docket ID: OMB-2014-0001

Dear Mr. Shelanski:

The American High Performance Building Coalition (AHPBC) is pleased to comment on OMB's Proposed Revision of Circular A-119. AHPBC, composed of leading organizations representing a range of products and materials relevant to the building and construction industry, is committed to promoting performance-based energy efficiency and sustainable building standards. The Coalition's mission is to support and promote green building codes, standards, rating systems and credits that are developed in conformance with full ANSI or ISO-type consensus processes, are data-driven, supported by science, and performance-based.

First, we express support for OMB's proposed general principle that federal agencies should prefer voluntary consensus standards over non-consensus standards. This is a welcome improvement to the Circular. We acknowledge OMB's view that some non-consensus standards, particularly in fields where speed is necessary, such as information technology, may be suitable for government use. But we believe such use, in practice, should be quite limited, and that such use would not be appropriate for so-called "green" or "sustainability" standards. The Circular should provide enough context to make this clear.

It is our experience that some "green" and "sustainability" standards have moved away – without justification - from the voluntary consensus development system, and these standards are not suitable for government use for regulatory or procurement purposes. A sustainability standard describing a complex system like a building encompasses thousands, if not tens of thousands or more, of discrete compounds, materials, components, and building products. If anything, it becomes more important – not less – that consensus principles be used to build a building standard on a proper foundation, with appropriate stakeholder engagement. And while it is a challenge to develop a consensus standard that addresses a whole building, it can be done and has been done.

In our view, a subjectively expressed desire by a standard developer for "speed" cannot itself be a justification under the Circular to develop a non-consensus standard. We suggest that clear criteria be offered to help guide agencies in their selection of non-consensus standards, and

that they be selected in cases where speedy development is objectively needed for reasons of national security or a compelling public health objective, or a technology standard in cases of rapidly changing technology developments.

The government plays an important role here. The Circular should not function to justify continued use of non-consensus standards where consensus standards are available or could readily be developed. Rather, the Circular can help nudge those standards developers into using accepted procedures and improving their processes.

In addition, we believe it would be helpful to note those development elements that remain necessary even for non-consensus standard development. For example, if a new widget were needed quickly for a submarine that had certain material performance properties and were salt-water resistant, it might be necessary to have stakeholder participation from the relevant producers (sub builders, widget builders, widget material suppliers, widget coatings suppliers) and the relevant users (government) but not full participation from the general public and “other” category. We have observed that when it comes to standards that address product design, manufacture, use and performance, the participation of the manufacturers of the product, materials and components is not something merely optional, but is essential to ensuring both a technically sound standard and to ensuring that the process has not been abused for anticompetitive reasons. It would be prudent to include a suitable caution to non-consensus standard developers that stakeholders critical for these purposes cannot simply be excluded in the name of achieving “speed.”

Use of ANSI/ISO definitions to describe elements of voluntary consensus standard development.

The proposal includes expanded definitions for a number of elements of the consensus standard development process, which we support in principle. A number of the changes, however, do not appear aligned with accepted ANSI / ISO definitions. The definition of consensus agreement, in particular, should be at least as robust as ANSI’s definition. We ask OMB to consider the closest alignment possible to ANSI / ISO definitions.

We appreciate the opportunity to comment and look forward to the revision process continuing.

Very truly yours,

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