



May 12, 2014

Ms. Jasmeet Seehra
Office of Information and Regulatory Affairs
The Office of Management and Budget
725 17th Street, NW
Washington, D.C. 20503

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

Docket Number: 79 FR 8207

Dear Ms. Seehra:

The International Association of Plumbing and Mechanical Officials and affiliates (The IAPMO Group) appreciates the opportunity to submit comments and provide input on the proposed revisions to OMB Circular A-119. We believe strongly that our country's public health and safety are protected through the development, adoption and implementation of voluntary consensus standards, and we greatly appreciate the US Government's efforts to support these activities.

Founded in 1926, IAPMO remains the pre-eminent standards development organization for plumbing, mechanical, swimming pool and solar codes. With approximately 4,000 members, IAPMO remains the only standards body where plumbing and mechanical codes are developed employing a true voluntary consensus process accredited by the American National Standards Institute (ANSI).

Additionally, IAPMO R&T is an ANSI-accredited conformity assessment body for plumbing and mechanical products. Far and away the preferred certification agency for manufacturers of plumbing and mechanical systems and products, IAPMO R&T is proud to provide product listing and certification services that benefit the plumbing industry domestically and internationally.

Due to our extensive experience as developer of voluntary consensus standards, and as a third-party certification body, please accept our comments as follows:

Voluntary Consensus Standards versus Voluntary Non-Consensus Standards

The IAPMO Group appreciates that Federal agencies generally go to great lengths to ensure that the guidance requirements in the current Circular are followed. Further, The IAPMO Group lauds the Federal government's efforts to prefer voluntary consensus standards over government unique standards. However, we recognize that in recent years there has been confusion among Federal agencies' interpretation as to which standards development procedures are acceptable and comply with the current Circular. To address this confusion, we appreciate the proposed revisions to the



Circular that go towards furthering the preference for voluntary consensus standards over other types of standards (including standards that are developed by voluntary non-consensus bodies).

The IAPMO Group believes that in areas where public health and safety are being addressed, Federal agencies should rely on voluntary consensus standards that are developed through processes which are open, transparent, participatory and contributed towards by stakeholders who represent a balance of interest. To effectively communicate OMB's preference for voluntary consensus standards in Federal regulations and for other Federal agency uses, while at the same time providing a pathway for other standards to be considered, OMB would be best served to define, within the Circular, the essential elements of a voluntary consensus standards development process. This is so because for industry stakeholders, these elements are pivotal in helping Federal agencies to understand the difference between various approaches in our industry, including the difference between a voluntary consensus standard development process and a voluntary non-consensus standard development process. We strongly support the requirements and standards development procedures developed pursuant to and in accordance with ANSI's Essential Requirements¹. As OMB finalizes the revised language of the Circular, we encourage OMB to work to align its definitions of attributes of voluntary consensus standards in the proposed circular (pgs. 18-19) with ANSI's Essential Requirements as these represent the "gold standard" for US codes and standards developers.

Openness

We applaud OMB for identifying openness as one of the critical elements of the voluntary consensus standards development process. The proposed Circular contains the following definition of openness (p.18):

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 standards are transparent.

We agree that interested or affected parties should have the opportunity to engage in the standards development process. However, as other industry organizations have noted, we feel that this proposed language may lead to unintended consequences. The proposed language may place undue burdens on Standards Developing Organizations (SDOs), particularly if it requires that all interested parties be able to participate in every stage of the standards drafting process – including the initial drafting of the standard.

The IAPMO Group believes that affected parties should have meaningful opportunities to participate at meaningful times in the standards development process. We feel that one of the essential characteristics of openness is the ability for parties who are directly and materially impacted by the standard being developed to have a voice throughout the process when that voice can make a difference. We believe that the vote is the vehicle that gives voice to the interests of affected parties.

¹ www.ansi.org/essentialrequirements



As such, we propose the following alternative language from ANSI's Essential Requirements:

Participation shall be open to all persons who are directly and materially affected by the activity in question. There shall be no undue financial barriers to participation. Voting membership on the consensus body shall not be conditional upon membership in any organization, nor unreasonably restricted on the basis of technical qualifications or other such requirements.

Balance of Representation

The IAPMO Group agrees with OMB that a balance of representation is an essential element in the development of a voluntary consensus standard. The proposed Circular contains the following language (p.19):

The standards development process should have a balance of representation. The representation appropriate to the development of a consensus in any given standard is a function of the standards being developed and the sector.

The IAPMO Group believes that maintaining a balance of representation amongst participants in the process, throughout all stages of the consensus process, is pivotal and a defining characteristic between the development of a voluntary consensus standard and a non-consensus standard. Because of the importance of this issue and the role this section will play in providing guidance to Federal agencies, we feel that this language needs to be strengthened. OMB will note the detailed description of Balance included in ANSI's Essential Requirements (Section 2.3). The definition above would permit an SDO to limit the input on a standard from a balance of interested groups in that standard to the initial development stages, placing the final decision on what is included in that standard in the hands of one specific interest group.

All stakeholder groups involved in code and standard development have a vested interest in the entire process. From our perspective, we feel that it is imperative that in order for a code or standard to be considered consensus (as compared to non-consensus) it must maintain this balance of representation throughout the entire development process and it must not permit domination by any single interest group at any time during the development process. Strengthening this definition will ensure that all codes and standards that impact public health and safety and that are utilized by Federal agencies are developed with a common platform for achieving true voluntary consensus.

As such, we propose the following alternate language:

The standards development process should have a balance of representation. The representation appropriate to the development of a consensus in any given standard is a function of the standards being developed and the industry. This balance of representation is met when a) no single interest category constitutes more than one-third of the



membership of a consensus body dealing with safety-related standards or b) no single interest category constitutes a majority of the membership of a consensus body dealing with other than safety-related standards.

In conclusion, The IAPMO Group applauds and supports OMB's efforts to revise OMB Circular A-119. As OMB encourages Federal agencies to utilize voluntary consensus standards, we recommend that it expand its definitions of openness and balance of representation to prevent confusion in the industry as well as promote uniformity with federal agencies' regulations as to maintaining private-sector driven, voluntary consensus based codes.

As previously mentioned, ANSI's Essential Requirements is widely considered the premier threshold in determining truly voluntary consensus-based codes and standards that are void of any conflict of interest. Aligning with a widely accepted, industry-based definition will benefit all affected industries, Federal agencies, businesses and the general public.

We sincerely appreciate your time and effort in this critical area. For additional questions, please contact Dain Hansen, The IAPMO Group's vice president of government relations, at (202) 414-6177 with any questions or comments regarding items discussed in these comments.

Sincerely,

A handwritten signature in black ink that reads "Russ Chaney". The signature is written in a cursive, flowing style.

GP Russ Chaney
CEO
The IAPMO Group