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## **Forest Stewardship Council (FSC) response to Request for Comments on a Proposed Revision of OMB Circular No. A119.**

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

Comments developed by Gary Dodge, PhD, Director of Science and Certification, Forest Stewardship Council, US. Contact: [g.dodge@us.fsc.org](mailto:g.dodge@us.fsc.org).

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### **Summary**

We thank OMB for the opportunity to provide comments on the Circular. In general we support the use of established standards in the government sector and feel the revisions to the Circular help guide agencies through valuable decision-making processes. Through our comments, at the highest level, we want to encourage OMB to take the following actions:

1. **Encourage the use of environmental and social “leadership standards.”**  
OMB should consider stressing preference for those standards that can drive on-the-ground benefits through market demand. We hope OMB can encourage agencies to favor standards with high performance thresholds for all significant environmental and social impacts that go well beyond what is required by law.
2. **Encourage the use of performance-based standards that represent real outcomes and avoid the use of system-based standards that require systems or programs to be in place without required performance measures.** The proliferation of ecolabels and sustainability claims has led to a very real proliferation of standards that confuse the marketplace by requiring nothing more than legal compliance alone. We hope OMB will consider adding changes to address this issue.
3. **Explicitly recognize the concept of environmental and social sustainability standards as being distinct from product performance or safety standards.** They should be addressed differently in many cases, including agency examination of the goals, consensus-seeking processes, and the use of prescriptive measures to achieve performance.

## Comments on general themes in the revised Circular:

- ***Encouraging Agency Use of Standards and Participation in Standards Development.*** We support and applaud these revisions to the circular as an effort to reduce redundancy, increase federal engagement in open standards development processes, and use the existing and functional private-sector efforts.
- ***Ensuring the Timely Updating of Standards.*** We support that functional standards must be kept to date, and that agencies should use the most recent versions of standards.
- ***Providing Guidance on Conformity Assessment.*** This is an absolutely essential role of the Circular. With the proliferation of standards (some that include misleading claims), it's highly important for the circular to provide agencies with the structures they need to determine which standards meet their goals.
- ***Enhancing Transparency and Stakeholder Participation.*** We applaud OMB for addressing this issue. The credibility of a standard is not only based on consensus-seeking mechanisms but the body of stakeholders who are represented in the consensus approach.

## Background Item 2: What are the Goals of the Government in Using Voluntary Consensus Standards?

- We agree with the stated goals of the use of voluntary consensus standards, which include eliminating extra costs, serving national needs and promoting trade, and addressing high quality and cost-effective procurement.
- We suggest that there is important information missing here. An additional goal should be developed to ensure that procurement of materials and services address potential negative environmental, social, and economic outcomes. These goals may fall under "national needs" but it would be great if the Circular included direct reference to this goal.
- OMB should consider adding the following: "*d. furthering the Government commitment to promote environmental sustainability and social justice.*"

## Definitions Item 3f: "Voluntary consensus standards bodies"

- We agree that this is central to the process of understanding credible and meaningful standards. However, the section lacks any real capacity to distinguish true balance of representation (ii) and the subsequent outcomes of a standard.

We suggest that balance of representation is reflected if the standards setting body, including decision-making capacity, is open to a broad range of all interested and affected stakeholders and cannot be dominated by a single interest.

- Consensus is an easy goal if one can hand-pick the representatives that decide on and govern a standard. It can also result in a standard that appears to represent something, but in reality represents little or no value. With respect to environmental concerns, this is referred to as “greenwashing” and it’s recognized as being prolific in the world of environmental sustainability standards.
- OMB should consider adding the following underlined sentence to the definition of “Balance of representation”: *The standards development process should have a balance of representation. The success of achieving such balance can be judged by the meaningful involvement from a broad range of interested and affected stakeholders in decision-making and governance roles, by the absence of a single interest dominating decision-making and governance, and by the organizations that are members of, or that support, the standards body. 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.*

**Policy Item 6k: Should my agency give preference to performance standards?**

- We strongly agree with the instruction that agencies should prefer performance standards over impractical and limiting prescriptive or system-based standards. There are a few key elements that are not addressed in this section that we hope can be addressed: 1) the value of prescriptive elements within sustainability standards; 2) the concept of system-based standards; and 3) the level of performance required by a standard.
  1. Oftentimes, prescriptive criteria are the only practical means for ensuring desired performance outcomes. Prescriptive criteria are often easier to implement and certainly easier to verify conformance to than performance criteria. Suggested text considerations: *standards’ criteria are performance-based when such criteria may reasonably be used in lieu of prescriptive criteria. Prescriptive criteria are used when there is science-based support that the prescribed action is the sole manner to achieve the desired outcome. System-based or program-based criteria are not used unless they are accompanied by additional criteria that address the specific outcomes (benefits) of those systems or programs.*

2. In the world of sustainability standards, we see standards developed by interest groups that use system-based approaches that are important to distinguish. System-based approaches can be misleading in that they appear to address a particular performance outcome but only require systems to address outcomes. For example, a system-based standard would require that a system (or program) be in place to address water quality protection rather than require that water quality be protected. System-based standards are often viewed as “greenwashing” in sustainability standards.
3. OMB also does not include any mechanism for agencies to address the level of performance of a standard. For example, consensus standards do exist addressing sustainability where performance is little more than legal baselines. OMB should encourage the use of higher-performing, leadership standards (see next comment for further elaboration).

**Policy Item addressing leadership standards [PROPOSED NEW]:**

- OMB should consider including: “*Should my agency give preference to standards that require a higher level of performance?*”
- We propose this new Policy Item to address the fact that agencies should be encouraged to use leadership standards (those that represent a high level of performance and can drive improvements) where established leadership standards exist and additional costs are feasible. For example, if the function of a leadership standard is a higher level of environmental performance, then, where multiple standards exist, the agency should prefer the standard(s) that requires a higher level of environmental performance.
- Standards exist, especially when making environmental “green” claims that achieve little or nothing more than legal compliance. For example, where multiple standards represents a “green” outcome, those standards needs to be judged by agencies for their values in order to distinguish standards that achieve a higher level of performance from those that are **procedurally functional** but do not represent an important outcome.
- Procedurally functional standards are those that have the required elements to be considered consensus-based, and even potentially performance-based, but that don’t include requirements to have the consensus represent valuable outcomes.

**Policy Item addressing product performance versus production performance  
[PROPOSED NEW]:**

- OMB should consider including: “Policy item 6q. Should my agency use voluntary standards for both inherent product quality as well as standards that address the environmental and social conditions of the production of a product?”
- OMB could improve the clarity of the Circular by explicitly recognizing that there are various types of standards. For example, some standards represent inherent product quality (tensile strength, electrical safety, product durability, etc.) and others represent outcomes associated with the production or use of a product (energy efficiency, carbon emissions, environmental protection). Both are important and can meet the goals of this Circular.

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