



UNITED STATES DEPARTMENT OF COMMERCE
The Secretary of Commerce
Washington, D.C. 20230

June 17, 2013

The Honorable Sylvia Mathews Burwell
Director
Office of Management and Budget
Washington, DC 20503

Dear Ms. Burwell:

The enclosed *Sixteenth Annual Report on Federal Agency Use of Voluntary Consensus Standards and Conformity Assessment* presents activities carried out by Federal agencies during fiscal year 2012, as required under Public Law 104-113, the National Technology Transfer and Advancement Act, and Office of Management and Budget (OMB) Circular A-119. I am pleased to submit this report to OMB for review and subsequent forwarding to Congress.

The enclosed report summarizes metrics of Federal agency activities for the past fiscal year. These include Federal use of voluntary consensus standards and government-unique standards, as well as Federal participation in developing voluntary consensus standards.

As shown, reported use of government-unique standards in lieu of voluntary consensus standards remains low. Moreover, Federal agencies are using private-sector standards for their regulatory and procurement needs and are realizing benefits from doing so. Federal agencies also continue to better understand the requirements of the Act and the Circular, as demonstrated by active Federal engagement with our system of voluntary standards development and conformity assessment within the United States.

If you have any questions, please contact Gordon Gillerman, Chief, Standards Services, National Institute of Standards and Technology, at 301-975-8406 or gordon.gillerman@nist.gov.

Sincerely,

Cameron F. Kerry
Acting Secretary of Commerce

Enclosure

NISTIR 7930

**Sixteenth Annual Report on Federal
Agency Use of Voluntary Consensus
Standards and Conformity Assessment**

Nathalie Rioux

<http://dx.doi.org/10.6028/NIST.IR.7930>

NIST
National Institute of
Standards and Technology
U.S. Department of Commerce

NISTIR 7930

Sixteenth Annual Report on Federal Agency Use of Voluntary Consensus Standards and Conformity Assessment

Nathalie Rioux
*Standard Coordination Office
Standards Services*

<http://dx.doi.org/10.6028/NIST.IR.7930>

April 2013



U.S. Department of Commerce
Rebecca Blank, Acting Secretary

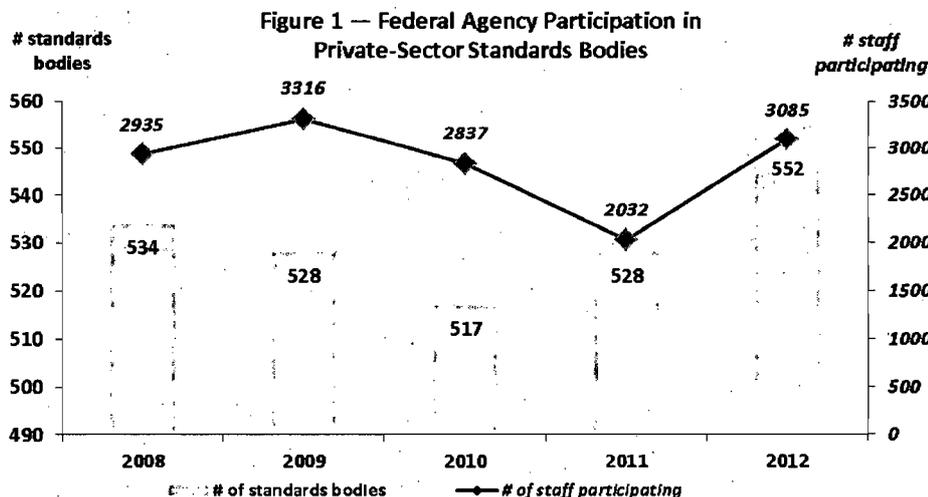
National Institute of Standards and Technology
Patrick D. Gallagher, Under Secretary of Commerce for Standards and Technology and Director

Sixteenth Annual Report on Federal Agency Use of Voluntary Consensus Standards and Conformity Assessment

The U.S. Department of Commerce (DOC) presents this summary report to the Office of Management and Budget (OMB) in compliance with OMB Circular A-119 and Public Law 104-113, the National Technology Transfer and Advancement Act (NTTAA). As required by Section 9 of the Circular, this report, prepared by the National Institute of Standards and Technology (NIST), describes activities related to the use of voluntary consensus standards (VCS) by 26 federal agencies during fiscal year (FY) 2012. These federal agencies, listed in Appendix A, fulfilled the reporting requirements of both the OMB Circular A-119 and Section 12 (d) (3) of the NTTAA by providing information on their activities related to the use of voluntary consensus standards in regulation, procurement, and conformity assessment.

In FY 2012, only one agency, the Department of Labor (DOL), reported issuing a government-unique standard (GUS) in lieu of VCS as noted in Appendix B. With this addition, the total is now 53 GUS replacing VCS since the inception of this report in 1997. DOL developed its Hazard Communication Standard to align with other countries using the United Nations Globally Harmonized System of Classification and Labeling. In addition DOL wished to avoid burdening the regulated community with requirements to purchase and use numerous individual consensus standards to cover this issue.

In FY 2012, federal agencies reported 423 new uses of VCS, which is nearly double the number (261) reported in FY 2011. Of the reported new uses, HHS accounted for 32%, DoD accounted for 29%, and DHS accounted for 19%. Federal agencies reported substituting eight VCS for GUS, all within DoD. Continued adoption of significant numbers of VCS, coupled with the review and substitution of existing GUS for VCS, indicate an appropriate level of awareness and acceptance of private sector standards by federal agencies. Taken together with the careful consideration and low rate of development of new GUS in lieu of VCS, these indicators demonstrate the NTTAA's success in encouraging agencies to consider using VCS to meet their regulatory, procurement, and conformity assessment needs.



Agencies reported 3,085 personnel participating in a total of 552 standards-developing organizations during FY 2012. Figure 1 displays data describing the last five years of reported federal engagement with standards bodies. The continued high level of federal participation reflects a

sustained commitment of the U.S. government to the activities of the private sector led VCS system.

Evaluation of the Effectiveness of OMB Circular A-119

During FY 2012, the majority of reporting agencies either had no comment on the effectiveness of OMB Circular A-119, or indicated that they found the Circular effective in helping them manage their standards development programs. Presented below are a few individual agency comments and their recommended changes to the Circular.¹

Department of Agriculture (USDA) – The USDA continues to believe that it is appropriate to examine the effectiveness of the annual reporting methodologies.

Department of Health and Human Service (HHS) – Federal agencies would benefit from access to guidance on benefit-cost analysis models for agency decision making about using VCS that impose a cost to the public and private sector users of the standard that is mandated by government regulation.

Department of Justice, DOJ – DOJ’s National Institute of Justice suggests that guidance on OMB Circular A-119 could help agencies understand how to address performance requirements and gaps in research. Some standards are incomplete, lacking valid test methods addressing articulated performance requirements. Federal agencies may be in a unique position to provide research support that addresses gaps in standards and that may improve the usefulness of the standards to both the government and private sector.

Department of Transportation (DOT) - DOT continues to recommend that OMB Circular A-119 be revised to require NTTAA reporting only on instances of government-unique standards being used in lieu of voluntary consensus standards, with the default position being that agencies use VCS for regulatory work. The Circular should continue the policy that there is no requirement to report on government-unique standards developed when a voluntary consensus standard is unavailable, per sections 6g and 9a of the Circular.

Environmental Protection Agency (EPA) – While the Circular is effective, the reporting tool presents a significant problem given the lack of resources for accurate, systematic cross-agency data collection. Two things in the report that hold the most credible information for the public are: (1) the current requirement to identify GUS standards used in lieu of voluntary consensus standards and (2) prose-style highlights of programs or areas where an agency made good — especially innovative — use of non-government standards in achieving goals.

The full text of agency individual reports may be found at <https://standards.gov/NTTAA/agency/index.cfm?fuseaction=agencyReports.main>.

¹ It is within OMB’s purview to consider and respond to these comments as appropriate.

During the past 16 years since the start of the NTTAA reporting requirement, federal agencies report a running total of only 53 GUS used in lieu of existing VCS (either added new GUS or subtracted discontinued GUS). This small inventory reflects the success of the NTTAA in encouraging agencies to use VCS and to engage with the private sector standards system for solutions to government needs, rather than to develop GUS.

Guided by the NTTAA and OMB A-119, NIST continues to assist federal agencies and their stakeholders with standards and conformity assessment information, program support, guidance, and policy concerns. NIST hosts <http://standards.gov>, offering ongoing practical guidance, tools such as the searchable Standards Incorporated by Reference database, and information needed by agencies to implement the NTTAA successfully as well as a means to report standards activities as required by the NTTAA and OMB Circular A-119. This report fulfills the annual reporting requirements of both the NTTAA and OMB Circular.

Appendix A: FY 2012 Federal Agency Information on Participation/Adoption of Voluntary Standards Activities Required by OMB Circular A-119

Agency	GUS used in lieu of VCS	VCS substituted for GUS	New VCS used this year	Employee participation in VCS bodies	VCS bodies with agency participation
USDA	1	0	0	84	49
DOC	0	0	0	517	129
DoD	*	8	124	n/a	122
DOE	0	0	5	416	100
ED	0	0	0	23	4
HHS	1	0	136	918	188
DHS	0	0	82	274	43
HUD	2	0	0	9	8
DOI	0	0	3	166	87
DOJ	0	0	0	8	5
DOL	13	0	3	60	22
DOS	0	0	0	10	1
DOT	4	0	14	144	47
TRES	0	0	0	1	14
EPA	23	0	10	80	14
GSA	3	0	10	15	18
NARA	1	0	0	15	9
NASA	*	0	0	82	16
CPSC	2	0	5	29	9
FCC	0	0	6	28	13
FERC	0	0	7	0	0
FTC	0	0	0	0	0
NRC	2	0	17	188	16
GPO	0	0	0	9	5
ACCESS	1	0	0	6	10
NSF	0	0	1	3	1
Totals	53	8	423	3085	**

* Agencies reporting on a categorical basis per OMB Circular A-119, Section 12

** Total not calculated to avoid duplicate counting due to participation in a standards body by more than one federal agency

Appendix B: FY 2012 New Government-Unique Standard Used in Lieu of Voluntary Consensus Standards

Agency	Department of Labor (DOL)	
Government Standard: 29 CFR 1910.1200 – Hazard Communication Standard (Incorporated: May 2012) [Incorporated: 2012]		
Voluntary Standard	Rationale	
<p>ASTM D 56-05, Standard Test Method for Flash Point by Tag Closed Cup Tester, Approved May 1, 2005, IBR approved for Appendix B to Sec. 1910.1200.</p> <ul style="list-style-type: none"> • ASTM D 86-07a, Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure, Approved April 1, 2007, IBR approved for Appendix B to Sec. 1910.1200. • ASTM D 93-08, Standard Test Methods for Flash Point by Pensky- Martens 	<p>This revision was undertaken to align the U.S. with other countries using the United Nations Globally Harmonized System of Classification and Labeling. It was based on various standards and guidance materials used in international negotiations under the United Nations. No single VCS is available to cover all the hazard communication issues that are addressed by OSHA in this final rule. The Agency believes that it is less burdensome for the regulated community to use the one OSHA standard rather than require the purchase and use of numerous individual consensus standards it used to write the rule.</p>	

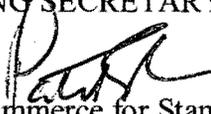


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OS EXECUTIVE SECRETARIAT

MEMORANDUM FOR THE ACTING SECRETARY

From: Patrick Gallagher 
Under Secretary of Commerce for Standards and Technology

Subject: Transmittal of Annual Report and Cover Letter

Forwarded for your approval and signature is a letter to Sylvia Mathews Burwell, Director, of the Office of Management and Budget (OMB), submitting the annual report on the implementation of the OMB Circular A-119, *Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities*. The Circular requires that the Secretary of Commerce issue an annual report to OMB on executive agency implementation of the Circular. Public Law 104-113, the National Technology Transfer and Advancement Act, requires that OMB report to Congress on the status of federal agency use of voluntary standards.

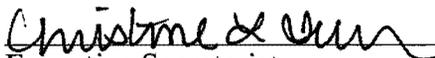
You summarize briefly the continued positive movement by federal agencies over the past year toward meeting the objectives of the Act and Circular.

Recommendation

I recommend that you sign the attached letter and transmit the annual report.

Attachment
-OMB Report

Executive Secretariat Clearance:


Executive Secretariat

6/18/13
Date

Executive Secretariat Clearance Sheet

Phone: 202-482-9080

Fax: 202-482-6087

Name: Agency Generated

Tracking No: 13-031135

Subject: Transmittal of Annual Report and Cover Letter

Agency: NIST

Signature Level: Acting Secretary

Due Date: 6/17 2pm

Re-Clear Due Date: _____

TIME CRITICAL DUE DATE & TIME: _____

Clearance Office	Date Sent	Date Returned to ES	Cleared by: name/comments	Re-Clear Date	Date Returned to ES	Re-Cleared by: name/comments
GC	6/12	6/13	Beth Vachon			
OPSP	6/12	6/11	Ari Schwark			
DEPSEC	6/12	6/13	Gyllen Herp			
CFO/ASA	6/12	6/17	Fred Stephens			

ExecSec Clearance: 6/17 @ 2:04pm Draft to Editor
6/17 Anatta to Christine
6/18 CTurner clear
6-18 to front offj for signature

Processed in ExecSec - Date: 6/11 Time: 12:58pm Correspondence Analyst: Tisa McRae

DO NOT MAIL - Call (name and extension): _____
 APPROVED FOR: Signature: _____ Autopen: _____ Date: _____ Approved by: _____

TIME CRITICAL

DATE NEEDED: _____
 REASON FOR EXPEDITING: _____

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NAME	BUILDING, ROOM OR REFERENCE NO.	TAKE ACTION BELOW	INITIALS AND DATE																	
D. F. Alderman	222/B146	2	DFA 5/3/13																	
G. Gillerman	222/B132	2	GG 5/3/13																	
G. Arnold	222/A105	2	GA 5/9/13																	
H. Wixon	101/A534	2	HW 13 MAY 13																	
K. Kimball	101/A1124	2	KK 5/16/13																	
P. Gallagher	101/A1134	1	PG 6/2/13																	
ACTION ITEMS																				
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<p>The annual report on the implementation of the OMB Circular A-119, Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities</p>																				
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