




Federal Engagement in Standards and Conformity Assessment Activities - Recent Developments

**Visiting Committee on Advanced Technology
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Overview

Recap of OSTP/NSTC and
Federal Standards Policy Issues



Updating Guidance to
Agencies

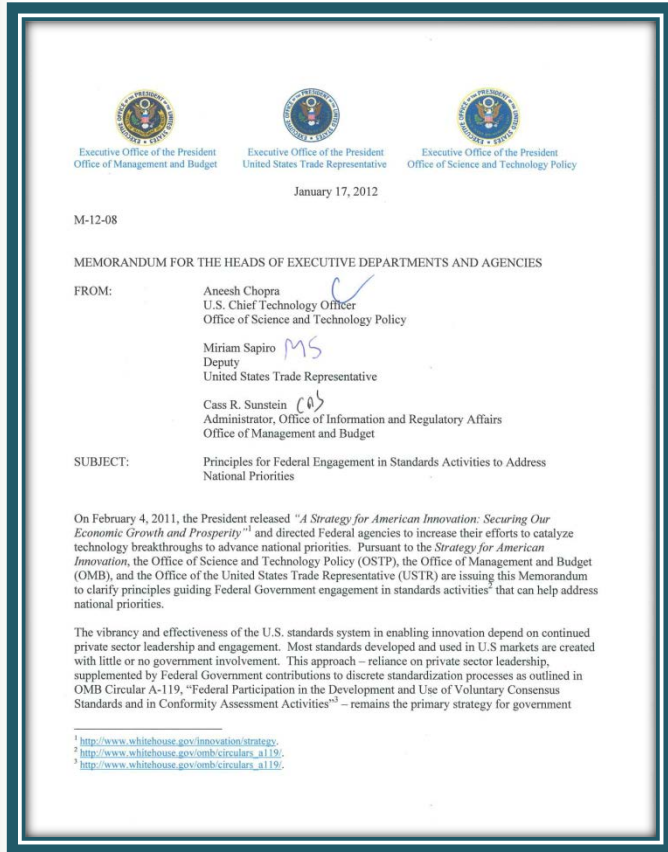


Developments in Key
Technology Areas



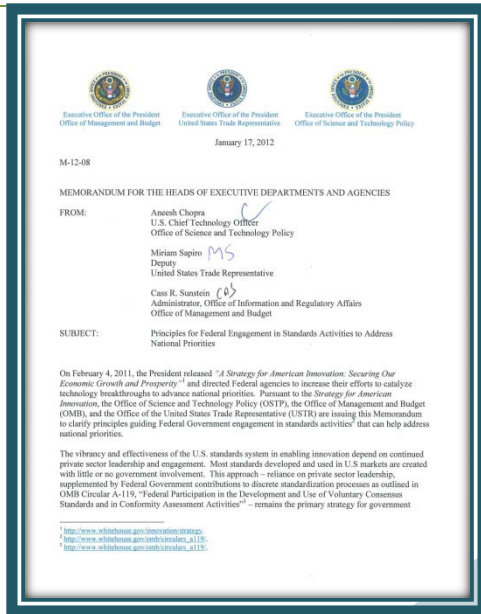
Looking Forward

White House Memorandum for Heads of Agencies



- Establishes principles for federal engagement in standards activities to address national priorities
- Reinforces innovation focus and private sector role in the standardization system
- Outlines strategic objectives for federal agencies
- Recognizes the growth of ICT technologies and changes in the standardization system in the past decade
- Emphasizes the global nature and broad impact of standardization and standards policy

Principles Impact



Provides the private sector greater clarity and certainty about federal government engagement

Conveys the U.S. government's continuing commitment to the public-private partnership that is the foundation of the U.S. standards system

Sends an important message to both domestic and international audiences

Establishes a framework for policy makers (Administration and Congress) to use while defining their standards needs

Provides clear direction to agency staff and leadership in their efforts to catalyze technology breakthroughs to drive U.S. innovation and competitiveness

Uptake of White House Principles

- Global Supply Chain Security
 - Standards as a key element
- Global Internet Governance
 - World Conference on International Telecommunications (WCIT) prep
- Information Sharing Across the Government
 - National Information Exchange Model (NIEM) and alternatives
- Smart Disclosure
 - Federal models (the buttons)
 - Use of existing data standards
- Financial Data Sharing
 - Federated models

Agency Use of Standards – Significant Developments

- Administrative Conference of the U.S.
 - Recommendations on international regulatory cooperation and incorporation of standards by reference in regulations
- Pipeline Safety and Improvement Act, Section 24
 - Provisions on incorporation of standards in pipeline safety regulation
- Office of the Federal Register
 - Petition for rulemaking on incorporation by reference
- OMB Request for Information on OMB Circular A-119
- Executive Order on Promoting International Regulatory Cooperation
- WTO Decision Confirming Principles of International Standardization

OMB Request for Information (RFI)

- Invitation for stakeholders to comment on current issues regarding Federal agencies' standards and conformity assessment activities (by June 1st) and attend a related workshop at NIST (May 15)
- **Objective:** to inform OMB, NIST, Federal regulators and other agencies on how to address issues in standards and conformity assessment that have emerged or moved to the forefront since OMB Circular A-119 was revised in 1998 and whether and how to supplement the Circular
- **Process:** after reviewing the comments and input from the workshop, OMB could decide to issue supplemental guidance to agencies on some or all of the issues raised in the consultation
- If OMB decides to move forward with supplemental guidance, it will issue a subsequent Federal Register notice and request comment

OMB Request for Information

- The RFI poses questions on several topics, including:
 - Agency Implementation of Circular A-119 in Rulemakings
 - Protection of Copyright Associated with Standards
 - Using and Updating Standards in Regulation
 - Standards and Cost-Benefit Analysis
 - Use of More than One Standard or Conformity Assessment Procedure
 - Use of Non-Consensus Standards
 - Conformity Assessment Activities

NIST Conformity Assessment Guidance for Agencies

NTTAA directs NIST to coordinate Federal agencies in:

- reducing overlap and duplication and increasing efficiency
- working with private sector

Federal agencies maintain their authority and responsibility to make regulatory, procurement and federal assistance decisions

NTTAA does not indicate a preference for any specific approach in conformity assessment

NIST advises Federal agencies on development of appropriate conformity assessment systems including the use of international CA standards

NIST Recommends a Risk-Based Approach to Conformity Assessment System Design



Consider risks associated with non-compliance when determining the necessary rigor of a system

- Over-design can be costly; may delay products to market
- Under-design reduces confidence; may prevent market acceptance of the product



Marketplace consequences, regulatory penalties and effective recall processes may be considered in determining needed level of rigor in conformity assessment systems

Next Steps on Conformity Assessment Guidance

- Planned revision by end of 2012 following OMB action on A-119
- Revised guidance will be structured to assist agencies in conformity assessment activity development and use
- Will focus on methods to reduce redundancy and complexity and where possible reduce burden on industry
- Current issues that may be addressed:
 - Conformity assessment in support of interoperability
 - Use of private sector conformity assessment programs
 - Taking global market requirements into account

Health IT

NIST Roles:

- Collaborate with HHS, Industry and SDOs for emerging HIT standards
- Develop test tools to accelerate adoption
- Advise HHS on software certification system
- Assist HHS in the implementation of certification system

Recent Developments

- Developed test method for Certification Program (2010; 2012 under development)
- Facilitated rapid start of HIT software certification; implementing transition to the use of formal lab and certifier accreditation
 - Commercial testing began in October 2010
 - 6 authorized testing laboratories/certification bodies
 - 2100+ certificates issued for modules and complete systems (as of May 2012)
 - Anticipate NVLAP and ANSI formal accreditation programs in operation by summer 2012

Smart Grid

NIST Roles:

- Develop and maintain NIST Smart Grid Interoperability Framework
- Administer Smart Grid Interoperability Panel and Advisory Committee
- Engage actively stakeholders, including Federal/State regulators.

Recent Developments

- Green Button Download My Data: Common-sense idea that electricity customers should be able to download their own energy usage information from their utility's secure website in a consumer- and computer-friendly electronic format.
 - Now available to over 10 million customers in California, Texas, and other states
 - Next Step: Green Button Connect My Data – automated third party data access with consent
- Smart Grid Interoperability Panel:
 - NIST is supporting transition of SGIP to become a legal entity “SGIP 2.0” in which the private sector will assume primary responsibilities for funding.
 - NIST remains committed to continued strong engagement and leadership within SGIP; transition will enable NIST to increase its internal smart grid measurement science program.



New Opportunities: Helping regulators and others to make connections between electricity, gas, and water infrastructures (for example, NIST discussions with Gas Technology Institute sparked creation of new working group in SGIP on intersection of gas/smart grid)

The ITU and Global ICT Standards

- Industry concerns regarding the expanding role of the ITU
 - Modifying the definition of “telecommunication” to explicitly include ICT
 - Proposals to amend the International Telecommunication Regulations (ITR’s) to cover wireless technology, and IP-based and next-generation networks
 - Work to create a conformance and interoperability database and conformance mark program
- Affirmative statement from the NSTC SOS and White House about the diversity of standards venues and the importance of that diversity
- Need to articulate what principles are at play and what is actionable from a USG perspective
- Continuing dialogue with industry representatives

Looking Forward

Coordinate with OMB on A-119 guidance
Propose updated conformity assessment guidance

Continue to build on SOS outcomes
Apply principles to the ITU/ICT space

Address timeliness of agency
incorporation by reference

Advance public/private
dialogue on availability of
standards incorporated in
regulation

References

- ❖ Executive Order 13563 (Improving Regulation and Regulatory Review)
http://www.whitehouse.gov/sites/default/files/omb/inforeg/eo12866/eo13563_01182011.pdf
- ❖ Executive Order 13609 (Promoting International Regulatory Cooperation)
http://www.whitehouse.gov/sites/default/files/omb/inforeg/eo_13609/eo13609_05012012.pdf
- ❖ White House Memorandum (*Principles for Federal Engagement in Standards Activities to Address National Priorities*): <http://www.whitehouse.gov/sites/default/files/omb/memoranda/2012/m-12-08.pdf>
- ❖ OMB Circular A-119 (*Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities*):
http://www.whitehouse.gov/omb/circulars_a119
- ❖ OMB Request for Information and Notice of Public Workshop: <http://www.federalregister.gov/>
- ❖ NIST *Guidance on Federal Conformity Assessment Activities*:
<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=d53165fe1e0865c5f506fdb332bee800&rgn=div5&view=text&node=15:1.2.2.9.12&idno=15>
- ❖ Office of the Federal Register proposed rule on incorporation by reference:
<https://www.federalregister.gov/articles/2012/02/27/2012-4399/incorporation-by-reference>