



United States Standardization System Public Sector

June 11, 2008

Donald E. Purcell, Chairman
The Center for Global Standards Analysis
donpurcell@strategicstandards.com



Creative Commons License

- The information provided in this presentation may be copied and used by any interested member of the public for the purpose of education provided: (1) there is attribution to “Donald E. Purcell, Chairman, The Center for Global Standards Analysis (2008),” and (2) the information is not published or used by others for the purpose of generating income.



United States Constitution

- “The Congress shall have Power ... [5] To coin money, regulate the value thereof, and of foreign coin, and *fix the standard of weights and measures; . . .*” [United States Constitution, Article I, Section 8, *emphasis added* (1784)]



Congressional Report on Weights & Measures

- *Weights and measures* may be ranked among the necessities of life to every individual of human society. They enter into the economical arrangements and daily concerns of every family. They are necessary to every occupation of human history; to the distribution and security of every species of property; to every transaction of trade and commerce to the navigation of the mariner; and the marches of the soldier; to all the exchanges of peace, and all the operations of war. The knowledge of them, as in established use, is among the first elements of education, and is often learned by those who learn nothing else, not even to read and write. This knowledge is riveted in the memory of men throughout life. (John Quincy Adams, February 22, 1821, emphasis added)



Metric Act of 1866

- “The whole history of our revolutionary confederation, and of the constitutional government of the United States, has been a continuous acknowledgment of the perplexities arising from the diversity of weights and measures throughout their jurisdiction, and of the great desirableness of a uniform and a decimal system.” [House Report No. 62, Metric Act of 1866]



Interagency Committee on Standards Policy (ICSP)

- The Interagency Committee on Standards Policy also known as the ICSP provides advice and recommendations to the Secretary of Commerce and other Executive Branch agencies on matters related to standards policy. The ICSP seeks to promote effective and consistent standards policies plus foster cooperation between government, industry, and other private organizations involved in standards activities. The Committee reports to the Secretary of the Department of Commerce (DOC) through the Director of the National Institute of Standards and Technology. [<http://standards.gov/icsp/query/index.cfm>]



Relationship of Private Sector Standards to Federal Laws and Regulations

- To what extent are private sector standards integrated into federal laws and regulations?



Standards-related activities

- “Nothing . . . prohibit[s] any private person, Federal agency, or State agency from engaging in standards-related activities that do not create unnecessary obstacles to the foreign commerce of the United States. No standards-related activity of any private person, Federal agency, or State agency shall be deemed to constitute an unnecessary obstacle to the foreign commerce of the United States if the demonstrable purpose of the standards-related activity is to achieve a legitimate domestic objective including, but not limited to, the protection of the legitimate health or safety, essential security, environmental, or consumer interests and if such activity does not operate to exclude imported products which fully meet the objectives of such activity.” [19 USC Sec. 2531 (1994)]



Representation of United States International Interests by Private Persons

- “The representation of United States interests before any private international standards organization shall be carried out by the organizational member.” [19 USC Sec. 2543(b) (1996)]



Consultations with representatives of domestic interests

- “In carrying out the functions for which responsible . . ., the Trade Representative and the Secretary [of Commerce] shall solicit technical and policy advice from the committees . . . That represent the interests concerned, and solicit advice from appropriate State agencies and private persons.” [19 USC Sec. 2547 (1996)]



Fair Packaging and Labeling

- “Whenever the Secretary of Commerce determines that there is undue proliferation of the weights or masses, measures, or quantities in which any consumer commodity or reasonably comparable consumer commodities are being distributed in packages for sale at retail and such undue proliferation impairs the reasonable ability of consumers to make value comparisons with respect to such consumer commodity or commodities, he shall request [industry] . . . To participate in the development of a *voluntary [labeling] product standard* for such commodity or commodities . . . “ [15 USC Sec. 272 (d) (1901), emphasis added]



Consumer Product Safety Standards

- “The [Consumer Product Safety] Commission shall rely upon voluntary consumer product safety standards rather than promulgate a [mandatory] consumer product safety standard . . . whenever compliance with such voluntary standards would eliminate or adequately reduce the risk of injury addressed and it is likely that there will be substantial compliance with such voluntary standards.” [15 USC Sec. 2056 (b) (1990)]

Consumer Product Safety

Moderization Act [H.R. 4040 (2008)]

- The Consumer Product Safety Commission shall:
 - (1) examine and assess the effectiveness of any voluntary consumer product safety standards for durable infant or toddler product;
 - (2) promulgate consumer product safety rules that--
 - (i) are substantially the same as such voluntary standards; or
 - (ii) are more stringent than such voluntary standards, if the Commission determines that more stringent standards would further reduce the risk of injury associated with such products.



Toy Standards [H.R. 4040]

- Children's toys must be as safe as possible. **Section 107(a) directs the CPSC to examine the effectiveness of the current voluntary standard--ASTM-International standard F963-07--that governs a wide range of hazards, including strangulation, burns, and choking, that could be presented by toys.** The CPSC must determine the scope, adherence to, and adequacy of the **voluntary standard** in protecting children from safety standards.
- Subsection (b) provides for a special focus on that standard as it relates to **magnets** included in toys, and a determination of whether that standard is effective to prevent intestinal blockages and perforation hazards cause by ingestion of magnets that are parts of toys. The Committee notes that toys with powerful magnets have caused serious injuries to several children over the past few years and even caused the death of one child. Since these incidents, the industry has adopted a **voluntary standard** covering magnets in toys. **If the CPSC determines that there is substantial noncompliance with the voluntary standard on magnets, it must expedite a rulemaking to consider the adoption of a mandatory standard covering the related hazards.**



National Technology Transfer and Advancement Act

- [A]ll Federal agencies and departments shall use technical standards that are developed or adopted by *voluntary consensus standards bodies*, using such technical standards as a means to carry out policy objectives or activities determined by the agencies or departments [except if the technical standard is inconsistent with applicable law or otherwise impractical]. [Public Law, 104 P.L. 113 (1996), emphasis added]



OMB Circular A-119 (Feb 1998)

- What is OMB Circular A-119?
- Why was this Circular developed?
- What is the scope of the Circular?



Relationship between Legislation and Private Sector Standards

- To what extent does Congress depend upon private sector standards when developing new laws?

Improving America's Security Act of 2007

RESPONSIBILITIES- The Director of the Office for the Prevention of Terrorism shall . . . (E) coordinate with the Federal Emergency Management Agency, the Department of Justice, the National Institute of Justice, law enforcement organizations, and other appropriate entities to support the development, promulgation, and updating, as necessary, of *national voluntary consensus standards* for training and personal protective equipment to be used in a tactical environment by law enforcement officers.

- Equipment Standards- If an applicant for a grant under this title proposes to upgrade or purchase, with assistance provided under that grant, new equipment or systems that do not meet or exceed any applicable *national voluntary consensus standards* developed under section 647 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 747), the applicant shall include in its application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.
- Accreditation and Certification Program- Not later than 120 days after the date of enactment of this section, the Secretary, in consultation with representatives of the organizations that coordinate or facilitate the development of and use of *voluntary consensus standards*, appropriate voluntary consensus standards development organizations, each private sector advisory council created under section 102(f)(4), and appropriate private sector advisory groups such as sector coordinating councils and information sharing and analysis centers. [S. 4]



Energy Efficiency Buildings Act of 2007

- Definition of Energy Efficient Building- For purposes of this section the term `energy efficient building' means a building that--
 - (1) achieves a reduction in energy consumption of--(A) at least 30 percent for new construction, *compared to the energy standards set by the 2004 International Energy Conservation Code (in the case of residential buildings) or ASHRAE Standard 90.1-2004*; or (B) at least 20 percent for major renovations, compared to energy consumption before renovations are begun; (2) is *constructed or renovated in accordance with the most current, appropriate, and applicable voluntary consensus standards* , as determined by the Secretary, such as those listed in the assessment under section 914(b), or revised or developed under section 914(c), of the Energy Policy Act of 2005 (emphasis added). [H.R. 84]



Global Warming Pollution Act of 2007

CORPORATE ENVIRONMENTAL DISCLOSURE OF CLIMATE CHANGE RISKS. [S.B. 309, emphasis added]

- (a) Regulations- Not later than 2 years after the date of enactment of this Act, the Securities and Exchange Commission (referred to in this section as the 'Commission') shall promulgate regulations in accordance with section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) directing each issuer of securities under that Act to inform securities investors of the risks relating to--
 - (1) the financial exposure of the issuer because of the net global warming pollution emissions of the issuer; and
 - (2) the potential economic impacts of global warming on the interests of the issuer.
- (b) *Uniform Format for Disclosure- In carrying out subsection (a), the Commission shall enter into an agreement with the Financial Accounting Standards Board, or another appropriate organization that establishes voluntary standards, to develop a uniform format for disclosing to securities investors information on the risks described in subsection (a).*



Consumer Product Safety Moderization Act (2008)

- (1) IN GENERAL- The [Consumer Product Safety] Commission shall--
 - (A) in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, examine and assess the effectiveness of any *voluntary consumer product safety standards* for durable infant or toddler product; and
 - (B) in accordance with section 553 of title 5, United States Code, promulgate consumer product safety rules that--
 - (i) are substantially the same as such *voluntary standards*; or
 - (ii) are more stringent than such *voluntary standards*, if the Commission determines that more stringent standards would further reduce the risk of injury associated with such products.
 - [Section 104, emphasis added]



Standards Internet Sites

- Standards.gov
http://standards.gov/standards_gov/index.cfm
- National Institute of Standards and Technology
<http://www.nist.gov>
 - National Center for Standards & Certification Information
<http://ts.nist.gov/standards/information/index.cfm>
- United States Trade Representative
<http://www.ustr.gov>



Standards Development Organization Advancement Act (2004)

- Why was this law created?
- Who is covered by this law?
- What are the benefits of this law?