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Voluntary Safety Standards: In the Public Interest?

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Good morning. I have three main points I want to make in my opening remarks:

- **Voluntary standards help to improve the safety of products for the protection of consumers.**
- **The ANSI process is fair and open, and designed to protect the rights and interests of every participant.**
- **Voluntary standards help the government fulfill its mandate to ensure public safety and health.**

**Introduction**

Private sector standardization has existed in this country for over 100 years.

It is a system that is older than most of the federal regulatory agencies, and certainly older than virtually all of the social regulatory agencies.

Two of the oldest standards setting organizations are ASTM International and Underwriters Laboratories, Inc.

These two organizations, both over a hundred years old, are also among the largest developers of voluntary safety standards for consumer products.

Both are accredited by ANSI.

ANSI itself is 86 years old, having been founded in 1918 by five engineering societies and three government agencies, who recognized the need for a focal point for standards coordination, harmonization and information.

Some of ANSI's earliest efforts were coordination of national safety codes to replace the many laws and recommended practices that were hampering accident prevention.

The first American Standard Safety Code was approved in 1921 and covered the protection of heads and eyes of industrial workers.

Today there are over 10,000 American National Standards (ANS).

There are over 1,200 ANSI-approved safety standards designed to protect the workforce, consumers and the general public.

There are some 200 ANSI-accredited standards developers across the spectrum of industry.

ANSI itself is not a standards developer. Our members, not ANSI, develop standards.

We are not a government agency or a regulatory body.

We are a private, 501c3 non-profit membership organization.

We provide a forum where subject matter experts from the private and public sectors can work cooperatively toward the development of voluntary standards to benefit the nation.

The ANSI Federation comprises a unique and diversified body of stakeholders that includes industry, standards developing organizations, trade associations, professional and technical societies, government agencies, labor organizations, consumer groups, and academia.

### **National Standardization**

Accreditation by ANSI signifies that the procedures used by a standards developing body satisfy our essential requirements for openness, balance, consensus and due process.

**The consensus process overseen by ANSI is fair, open and transparent.**

**It is a process with numerous checks and balances, designed to protect the rights and interests of every participant.**

It is founded on these principles:

- that all interested and affected parties have the opportunity to participate in a standard's development, either as a member of the consensus body or via public comment
- that there is timely and adequate notice of standards activity, and adequate time and opportunity to comment on draft standards
- that the process shall not be dominated by any one interest group, and that participants from diverse interest categories shall be sought with the objective of achieving balance
- that substantial agreement must be reached by all concerned parties, that all views and objections must be considered, and that an effort must be made toward their resolution

- that there be written, documented procedures governing the methods used for standards development, including the right to appeal adverse decisions
- that these procedures shall be available to any interested person.

Standards developers must consistently adhere to these essential requirements in order to maintain their ANSI-accreditation.

They must also undergo regular audits, and audits for cause.

Standards that have been developed by ANSI-accredited developers in accordance with these essential requirements are approved by ANSI as American National Standards.

ANSI is totally unbiased when it comes to the technical content of the standards it approves.

ANSI's role is to ensure the integrity of the process under which the standard is developed.

Anyone may request that a standard be changed or withdrawn if it is claimed that the standard is contrary to the public interest or not suitable for national use.

Our process helps to minimize safety risks by ensuring that any standard we approve has the consensus agreement of a balanced group of experts and others who are interested in the subject matter.

These due process safeguards serve to ensure the integrity of the U.S. voluntary consensus standards system.

We believe that products and services manufactured in accordance with American National Standards afford greater protection to consumers.

### **Government Reliance – NTTAA and OMB A-119**

One of the best indicators of the strength of the U.S. system is the government's extensive reliance on, and use of, voluntary standards.

The program blurb notes that federal regulators are increasingly promoting voluntary safety standards because they can be introduced more easily and more quickly than can regulations.

Let's be clear what we're talking about.

Standards are guidelines to be used on a voluntary basis.

They become mandatory when they are adopted or referenced into laws or technical regulations for health, safety, and protection of the environment.

In the U.S., no single government agency has control over standards.

Each government agency determines which standards best meet its needs.

The National Technology Transfer and Advancement Act, signed into law in 1996, requires all Federal government agencies and departments:

- to use voluntary consensus standards developed by the private sector, unless doing so would be inconsistent with applicable law or otherwise impractical
- to evaluate whether a private sector standard exists, before developing a government-unique solution
- to participate with the private sector in developing voluntary consensus standards, provided such participation is in the public interest and is compatible with agency and departmental missions, authorities, priorities, and resources.

The Act directs the Commerce Department's National Institute of Standards and Technology (NIST, formerly known as the National Bureau of Standards):

- to coordinate Federal, state and local government standards and conformity assessment activities with the private sector
- to report annually to Congress through OMB on Federal agency
  - o use of voluntary consensus standards
  - o use of government-unique standards in lieu of voluntary consensus standards, and
  - o agency participation in the development of voluntary consensus standards

Guidance for agencies to implement the provisions of the Act is set forth in revised OMB Circular A-119.

The Circular makes it clear that the overall intent of these policies is:

- to make the Federal government operate more efficiently
- to reduce regulatory and procurement costs
- to avoid the duplication and confusion caused by having separate private sector and government-unique solutions
- to take advantage of private sector technology and expertise in establishing standards that serve national needs
- to contribute to economic prosperity and growth

These policies do not preempt or restrict agencies' authorities and responsibilities to make regulatory decisions authorized by statute.

### **CPSC use of voluntary consensus standards**

For example, the CPSC's authorizing legislation requires the Commission to rely on voluntary standards rather than issue a mandatory standard, provided the voluntary standard:

- would eliminate or adequately reduce the risk of injury addressed
- it is likely that there will be substantial compliance with the voluntary standard

Regulations promulgated by CPSC only cover gaps in product safety not covered by voluntary standards, or instances of non-conformance to a voluntary standard.

The ratio of voluntary to mandatory standards adopted by the Commission is 5 to 1.

For FY 2002, CPSC reported that:

- 18 new or revised voluntary consumer product safety standards, for which CPSC staff provided technical support, were approved.
- These included standards for such diverse products as: bassinets and cradles, escalators, exercise treadmills, garage door operators, bicycle helmets, pool alarms, non-powered scooters, residential fire sprinklers, and gas water heaters.
- In total, Commission staff provided technical support to the development of 64 voluntary safety standards.

CPSC's use of voluntary and mandatory standards, together with recalls, and consumer information provide an approach that is both efficient and effective in balancing the needs of consumers and industry.

### **Consumer Participation**

Protecting the safety of the consumer is of paramount importance to ANSI.

Consumers have numerous ways to influence voluntary standards development:

- through direct participation in the activities of ANSI and its accredited standards developers,
- through public review and comment,
- through consumer organizations,
- through professional affiliations, and
- through local, state and federal agencies.

ANSI's Consumer Interest Forum works to educate consumers on the activities of ANSI and the standards developer community, and to facilitate the representation of consumer interests in standards-setting and related conformity assessment activities.

This applies to both domestic and international activity.

While consumers do participate in both policy and technical standards discussions, there is considerable opportunity for more consumer involvement, both to ensure that consumer needs are addressed, and to maintain and enhance the integrity of the voluntary standards system.

### **Conclusion**

To sum up --

- **Voluntary standards help to further consumer product safety.**
- **ANSI serves all standardization interests in the U.S., by providing and promoting a process that withstands scrutiny.**
- **Voluntary standards equip the government with sound technical solutions to safety and health problems without creating additional cost and operations burdens.**

They are a desirable and integral part of our public interest framework.