DEPARTMENT OF COMMERCE
National Bureau of Standards
15 CFR Part 10
[Docket No. 50552-50568]
Amendment to Procedures for the Development of Voluntary Product Standards

AGENCY: National Bureau of Standards, Commerce.

ACTION: Final rule.

SUMMARY: This amendment of the Department's Procedures for the Development of Voluntary Product Standards modifies the provisions relating to the withdrawal of published standards, establishes an expanded appeals mechanism, provides for the issuance of interpretations of standards, provides for the submission of rational statements, and allows some representatives of Federal agencies to be voting members of Standard Review Committees and Standing Committees.

EFFECTIVE DATE: July 21, 1986.

FOR FURTHER INFORMATION CONTACT: Donald R. Mackay, Standards Management Program, Room A 625, Administration Building, National Bureau of Standards, Gaithersburg, MD 20899 (301-927-3287).

SUPPLEMENTARY INFORMATION: The National Bureau of Standards (NBS) published in the Federal Register on October 28, 1985, (50 FR 43573-43575), a proposed amendment to the "Procedures for the Development of Voluntary Product Standards." This proposed amendment would have modified the section of the procedures concerning the withdrawal of published standards, established a new appeals mechanism, and provided for the issuance of interpretations of standards.

The proposed amendment would also have provided for the submission of rational statements, if deemed necessary, under § 10.3(a), and would have eliminated a mechanism of validating consensus through a concept of "acceptance by volume of production" and "acceptance by volume of distribution." Finally, the proposed rule would have allowed representatives of Federal agencies to vote on committees. Several minor changes to the procedures were proposed of an editorial nature, as well as some additions and deletions.

The October 28, 1985 Federal Register Notice provided a 45 day period for the submission of comments. The American Lumber Standards Committee, the Standing Committee for PS 20-70, "American Softwood Lumber Standard," requested a 90 day extension of the comment period to allow sufficient time to develop a committee response to the proposal. This request was granted in a Federal Register Notice published on December 9, 1985, (50 FR 50177), extending the comment period to March 12, 1986.

Comments on the proposed amendment were received from the American Lumber Standards Committee ("ALSC") and the Glass Packaging Institute ("GPI"), the proponent for Voluntary Product Standard PS 73-77, "Carbonated Soft Drink Bottles."

The GPI basically disagreed with the entire proposal to amend the procedures stating that the existing procedures had worked well and there was no reason to change them.

The ALSC suggested certain changes to the proposed amendment to avoid what the Committee believed were potential problems. After carefully reviewing the proposed amendment and considering the comments received, the National Bureau of Standards has decided to accept the changes suggested by the ALSC, with some modifications. These recommendations pertain to §§ 10.4, 10.8, 10.14, and 10.15.

In considering the ALSC position regarding § 10.8, NBS has provided for the appointment by the Department of Commerce of two Federal representatives as voting members on the Standing Committee for PS 20-70, if requested to do so by that committee. Similarly, NBS has provided for the appointment of one Federal agency representative as a voting member of the other Standing Committees and of Standard Review Committees, if requested to do so by those committees. The appointment of two Federal voting members is justified on the basis of the large size of the Committee (presently 22 voting members) and the 6 advisory (non-voting) Federal agency members representing lumber producers and lumber specifiers.

The National Bureau of Standards has adopted a suggestion of the GPI with regard to the submission of rational statements. The GPI suggested that such statements, if deemed necessary, should be included in the written report of the Chairman of the Standard Review Committee, in § 10.5(d). The final amendment, however, also includes a provision for the submission of a rationale statement by the proponent under § 10.3(a) as well as a provision for the submission of a rationale statement by the Chairman of the Standard Review Committee under § 10.5(d). In both cases, the submission of such rationale statements is only required if such are "deemed necessary by the Department."

The proposed deletion of the mechanism for validating consensus through a concept of "acceptance by volume of production" and "acceptance by volume of distribution" was based on the preception that this complicated mechanism was no longer necessary since it has been used only once during the last 20 years. Both the ALSC and the GPI urged the retention of this mechanism. Therefore, the Department has decided to retain this mechanism in § 10.6(f) of the procedures.

The proposed new § 10.14 on "appeals" has been modified to reflect the changes suggested by the ALSC. The most significant change pertains to the filing of an appeal of a procedural action with the body taking that action (i.e., the Standard Review Committee, the Standing Committee, or the NBS). NBS agrees that the appeal should properly be heard by the body taking the action, and should be limited to procedural actions.

The proposed new § 10.15 on the issuance of interpretations was opposed by both the ALSC and GPI. The ALSC pointed out that there was a mechanism established within PS 20-70 for providing interpretations of the American Softwood Lumber Standard. The ALSC suggested that it develop formal procedures for issuing interpretations and submit the proposed procedures to NBS for approval and that other Standing Committees do likewise, if they have a need for issuing interpretations. NBS has accepted the ALSC suggestions.

As there were no comments submitted regarding the proposed editorial or other changes in the following sections, the changes have been included in the final rule: 10.3(b)[3], 10.3(c)[9], 10.3(b), 10.3(a)[4], 10.3(a)[5], 10.3(a)[6], 10.3(a), 10.9(b), 10.13(a), 10.13(b), 10.13(c), and 10.13(d).

This amendment is not considered to be a "major rule" under Executive Order 12291 because it will not (1) have an annual effect of $100 million or more on the economy, (2) provide a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions, or (3) have significant adverse economic effects on competition, employment, investments, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export matters. The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this
rule will not have a significant economic impact on a substantial number of small entities because it does not affect small companies and only affects trade associations that desire to develop voluntary standards through these procedures. This rule does not have a collection of information for the purposes of the Paperwork Reduction Act. Preparation of a Regulatory Impact Analysis is not required and no preliminary or final Regulatory Impact Analysis has been or will be prepared.

List of Subjects in 15 CFR Part 10

Administrative practice and procedure; Voluntary standards.

Dated: June 16, 1986.

Ernest Amler,
Director, National Bureau of Standards.

Part 10 of Title 15 CFR is revised as set forth below:

PART 10—PROCEDURES FOR THE DEVELOPMENT OF VOLUNTARY PRODUCT STANDARDS

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§ 10.0 General.

(a) Introduction. The Department of Commerce (hereinafter referred to as the "Department") recognizes the importance, the advantages, and the benefits of voluntary standards and standardization activities. Such standards may cover, but are not limited to, terms, classes, sizes (including quantities of packaged consumer commodities), dimensions, capacities, quality levels, performance criteria, inspection requirements, marking requirements, testing equipment, test procedures and installation procedures. Economic growth is promoted through:

(1) Reduction of manufacturing costs, inventory costs, and distribution costs;
(2) Better understanding among manufacturers, producers, or packagers (hereinafter referred to as producers), distributors, users, and consumers; and
(3) Simplification of the purchase, installation, and use of the product being standardized.

(b) Requirements for Department of Commerce sponsorship. The Department may sponsor the development of a voluntary Product Standard if, upon receipt of a request, the Department determines that:

(1) The proposed standard is likely to have substantial public impact;
(2) The proposed standard reflects the broad interest of an industry group or an organization concerned with the manufacture, production, packaging, distribution, testing, consumption, or use of the product, or the interest of a Federal or State agency;
(3) The proposed standard would not duplicate a standard published by, or actively being developed or revised by, a private standards-writing organization to such an extent that it would contain similar requirements and test methods for identical types of products, unless such duplication was deemed by the Department to be in the public interest;
(4) Lack of government sponsorship would result in significant public disadvantage for legal reasons or reasons of domestic and international trade;
(5) The proposed standard is not appropriate for development and maintenance by a private standards-writing organization; and
(6) The proposed standard will be funded by a proponent organization or government agency to cover costs for administrative and technical support services provided by the Department.

(c) Role of the Department. The Department assists in the establishment of a Voluntary Product Standard as follows:

(1) Acts as an unbiased coordinator in the development of the standard;
(2) Provides editorial assistance in the preparation of the standard;
(3) Supplies such assistance and review as is required to assure the technical soundness of the standard;
(4) Seeks satisfactory adjustment of valid points of disagreement;
(5) Determines the compliance with the criteria established in these procedures for such voluntary standards;
(6) Provides secretarial functions for each committee appointed by the Department under these procedures;
(7) Publishes the standard as a public document;

(8) Administers the funds for administrative and technical support services; and
(9) Seeks listing for standards developed under these procedures as American National Standards through the American National Standards Institute, when deemed appropriate by the Department.

(d) Role of producers, distributors, users, and consumers. Producers, distributors, users, consumers, and other interested groups may contribute to the development of a Voluntary Product Standard as follows:

(1) Initiate and participate in the development of the standard;
(2) Provide technical or other relevant counsel, as appropriate, relating to the standard;
(3) Promote the use of, and support for, the standard;
(4) Assist in keeping the standard current with respect to advancing technology and marketing practices.

(e) Role of the National Bureau of Standards. The National Bureau of Standards (NBS) administers these procedures for the Department. Any communications concerning these procedures (e.g., questions, clarifications, appeals) should be addressed to the Office of Product Standards Policy, National Bureau of Standards, Gaithersburg, Maryland 20899.
Voluntary Product Standard is justified, the Department may initiate the
development by requesting that a draft
of the suggested standard be prepared
by an appropriate committee, provided
such a draft has not previously been
submitted under paragraph (a) of this
section.

(e) The Department may initiate the
development of a Voluntary Product
Standard, if such action is deemed by
the Department to be in the public
interest, notwithstanding the absence of
a request from an outside source. A
voluntary standard initiated by the
Department shall be processed in
accordance with all requirements of
these procedures and shall be developed in
the same manner as a voluntary
standard initiated by any group referred
to in paragraph (a) of this section.

(f) An agreement regarding funding
procedures and receipt of a deposit
estimated by the Department to be
sufficient to cover the first year’s costs
shall occur prior to the initiation of any
project.

§ 10.2 Funding.

Groups who represent producers,
distributors, consumers or users, or
others that wish to act or continue to act
as proponent organizations for the
development or maintenance of a
Voluntary Product Standard will be
required to pay for administrative and
technical support services provided by
the National Bureau of Standards and
such other direct or indirect costs
associated with the development or
maintenance of that standard as may be
deemed appropriate by the Department,
including costs to the Department in
connection with the operation of the
Standard Review Committee and the
Standing Committee. Funds may also be
provided by a government agency at the
request of a proponent organization or
when acting on its own behalf for the
development or maintenance of a
Voluntary Product Standard. Proponents
of standards that meet sponsorship
criteria established in these procedures
shall furnish an initial deposit of funds
sufficient to cover the first year’s
services and other costs. Estimated
annual costs will be based on an hourly
rate for salary and overhead established
by the Department for the National
Bureau of Standards’ administrative and
technical support services as well as
estimates of direct costs to provide
funds for such items as the travel of
consumer representatives unable to
otherwise attend committee meetings,
travel for Department staff, and printing
costs. Project funds will be reviewed
annually. Excess funds may be refunded
or applied to the next accounting period.
Should funds from deposits be
inadequate during an accounting period,
work on the project will continue only if
funds are restored to a level estimated
adequate to complete the 12-month
period.

§ 10.3 Development of a proposed
standard.

(a) A proposed standard as submitted
to the Department:

(1) Shall be based on adequate
technical information, or, in the case of
size standards (including standards
covering the labeling of packaged
consumer commodities), on adequate
marketing information, or both, as
determined to be appropriate by the
Department;

(2) Shall not be contrary to the public
interest;

(3) Shall be technically appropriate
and such that conformance or nonconformance with the standard can be
determined either during or after the
manufacturing process by inspection or
other procedures which may be utilized
by either an individual or a testing
facility competent in the particular field;

(4) Shall follow the format prescribed
by the National Bureau of Standards.
(Copies of the recommended format may
be obtained from the Office of Product
Standards Policy, National Bureau of
Standards, Gaithersburg, Maryland
20899.);

(5) Shall include performance
requirements if such are deemed by the
Department to be technically sound,
feasible, and practical, and the inclusion
of such is deemed to be appropriate;

(6) May include dimensions, sizes,
material specifications, product
requirements, design stipulations,
component requirements, test methods,
testing equipment descriptions, and
installation procedures. The
appropriateness of the inclusion in a
standard of any particular item listed in
this subparagraph shall be determined
by the Department; and

(7) Shall be accompanied by rational
statements pertaining to the
requirements and test methods
contained in the standard, if deemed
necessary by the Department.

(b) A proposed standard that is
determined by the Department to meet
the criteria set forth in paragraph (a) of
this section may be subjected to further
review by an appropriate individual,
committee, organization, or agency
(either government or nongovernment,
but not associated with the proponent
group).

(c) A proposed standard may be
circulated by the Department to
appropriate producers, distributors,
users, consumers, and other interested
groups for consideration and comment
as well as to others requesting the
opportunity to comment.

(d) The proponent group or
appropriate committee which drafted
the initial proposal under § 10.1(d) shall
consider all comments and suggestions
submitted by the reviewer designated
under paragraph (b) of this section, and
those received by the Department as a
result of any circulation under
paragraph (c) of this section, and may
make such adjustments in the proposal
as are technically sound and as are
believed to cause the standard to be
generally acceptable to producers,
distributors, users, consumers, and other
interested parties. The proposal will
then be submitted to the Department for
further processing.

§ 10.4 Establishment of the Standard
Review Committee.

(a) The Department shall establish
and appoint the members of a Standard
Review Committee within a reasonable
time after receiving a proposed
standard. The committee shall consist of
qualified representatives of producers,
distributors, and users or consumers of
product for which a standard is sought
or any other appropriate general interest
groups such as State and Federal
agencies. When requested by the
Standard Review Committee, the
Department shall appoint one voting
member from among the representatives
of the Federal agencies, other than the
Department of Commerce. All other
representatives of Federal agencies on
the Standard Review Committee shall be
advisory nonvoting members.

(Alternates to committee members may
be designated by the Department.)

When deemed appropriate by the
Department, project funds under § 10.2
may be made available to assure
participation by consumer interests on
the committee at required meetings.

(b) A Standard Review Committee
may remain in existence for a period
necessary for the final development of
the standard, or for 2 years, whichever
is less.

(c) The Department shall be
responsible for the organization of the
committee. Any formal operating
procedures developed by the committee
shall be subject to approval by the
Department. The committee may
conduct business either in a meeting or
through correspondence, but only if a
quorum participates. A quorum shall
consist of two-thirds of all voting
members of the committee. A majority
of the voting members of the committee
participating shall be required to
approve any actions taken by the
committee except for the action of
recommending a standard to the
Department, the requirements for which
are contained in § 10.5(b).
§ 10.5 Development of a recommended standard.

(a) The Standard Review Committee, with the guidance and assistance of the Department and, if appropriate, the reviewer designated under § 10.3(b), shall review a proposed standard promptly. If the committee finds that the proposal meets the requirements set forth in § 10.3(a), it may recommend to the Department that the proposal be circulated for acceptance under § 10.6. If, however, the committee finds that the proposal being reviewed does not meet the requirements set forth in § 10.3(a), the committee shall change the proposal, after consulting with the proponent group, so that these requirements are met, before recommending such proposal to the Department.

(b) The recommendation of a standard by the Standard Review Committee shall be approved by at least three-quarters, or rejected by more than one-quarter, of all of the members of the committee eligible to vote. The voting on the recommendation of a standard shall be conducted by the Department if conducted by letter ballot. If such voting is accomplished at a meeting of the committee, the balloting shall be either by roll call or by signed written ballot conducted by the Department or the chairman of this committee. If conducted by the chairman, a report of the vote shall be made to the Department within 15 days. If the balloting at the meeting does not result in either approval by at least three-quarters of all members (or alternates) eligible to vote (whether present or not), or rejection by more than one-quarter of the members (or alternates) or the committee eligible to vote, the balloting shall be disregarded and the Department shall subsequently conduct a letter ballot of all members of the committee.

(c) Any member of the committee casting a negative ballot shall have the right to support an objection by furnishing the chairman of the committee and the Department with a written statement setting forth the basis for the objection. The written statement of objection shall be filed within 15 days after the date of the meeting during which the voting on the standard was accomplished, or, in the case of a letter ballot, within the time limits established for the return of the ballots.

(d) At the time a recommended standard is submitted to the Department, the Chairman of the Standard Review Committee shall furnish a written report in support of the committee’s recommendation. Such report shall include a statement with respect to compliance with the requirements established by these procedures, a discussion of the manner in which any objections were resolved, and a discussion of any unresolved objections together with the committee’s reasons for rejecting such unresolved objections.

§ 10.6 Procedures for acceptance of a recommended standard.

(a) Upon receipt from the Standard Review Committee of a recommended standard and report, the Department shall give appropriate public notice and distribute the recommended standard for acceptance unless:

(1) Upon a showing by any member of the committee who has voted to oppose the recommended standard on the basis of an unresolved objection, the Department determines that such objection were not resolved, the recommended standard:

(i) Would be contrary to the public interest, if published;

(ii) Would be technically inadequate;

(iii) Would be inconsistent with law or established public policy; or

(2) The Department determines that all criteria and procedures set forth herein have not been met satisfactorily or that there is a legal impediment to the recommended standard.

(b) Distribution for acceptance or rejection for the purpose of determining general concurrence will be made to a list compiled by the Department, which, in the judgment of the Department, shall be representative of producers, distributors, and users and consumers.

(c) Distribution for comment will be made to any party filing a written request with the Department, and to such other parties as the Department may deem appropriate, including testing laboratories and interested State and Federal agencies.

(d) The Department shall analyze the recommended standard and the responses received under paragraphs (b) and (c) of this section. If such analysis indicates that the recommended standard is supported by a consensus, it shall be published as a Voluntary Product Standard by the Department: Provided, That all other requirements listed in these procedures have been satisfied.

(e) The following definitions shall apply to the term used in this section:

(1) "Consensus" means general concurrence and, in addition, no substantive objection deemed valid by the Department.

(2) "General concurrence" means acceptance among those responding to the distribution made under paragraph (b) of this section in accordance with the conditions set forth in paragraph (f) of this section.

(3) "Substantive objection" means a documented objection based on grounds that one or more of the criteria set forth in these procedures has not been satisfied.

(4) "Average industry acceptance" means a percentage equal to the sum of the percentages of acceptance obtained from responses to distribution of the recommended standard in the producer segment, the distributor segment, and the user and consumer segment, divided by three. No consideration will be given to volume of production or volume of distribution in determining average industry acceptance.

(5) "Producer segment" means those persons who manufacture or produce the product covered by the standard.

(6) "Distributor segment" means those persons who distribute at wholesale or retail the product covered by the standard.

(7) "User and consumer segment" means those persons who use or consume the product covered by the standard.

(8) "Acceptance by volume of production" means the weighted percentage of acceptance of those responding to the distribution in the producer segment. The weighting of each response will be made in accordance with the volume of production represented by each respondent.

(9) "Acceptance by volume of distribution" means the weighted percentage of acceptance of those responding to the distribution in the distributor segment. The weighting of each response will be made in accordance with the volume of distribution represented by each respondent.

(f) A recommended standard shall be deemed to be supported by general concurrence whenever:

(1) An analysis of the responses to the distribution under paragraph (b) of this section indicates:

(i) An average industry acceptance of not less than 75 percent;

(ii) Acceptance of not less than 70 percent by the producer segment, the distributor segment, and the user and consumer segment, each segment being considered separately; and

(iii) Acceptance by volume of production and acceptance by volume of distribution of not less than 70 percent in each case: Provided, That the Department shall disregard acceptance by volume of production or acceptance by volume of distribution or both unless, in the judgment of the Department, accurate figures for the volume of production or distribution are reasonably available and an evaluation
of either or both of such acceptances is deemed necessary by the Department; or

(2) The Department determines that publication of the standard is appropriate under the procedures set forth in paragraph (g) of this section and, in addition, an analysis of the responses to the distribution under paragraph (b) of this section indicates:

(i) An average industry acceptance of not less than 65% percent;

(ii) Acceptance of not less than 60 percent by the producer segment, the distributor segment, and the user and consumer segment, each segment being considered separately; and

(iii) Acceptance by volume of production and acceptance by volume of distribution of not less than 60 percent in each case. Provided, That the Department shall disregard acceptance by volume of production or acceptance by volume of distribution or both unless, in the judgment of the Department, accurate figures for the volume of production or distribution are reasonably available and an evaluation of either or both of such acceptances is deemed necessary by the Department.

(g) A recommended standard which fails to achieve the acceptance requirements of paragraph (f)(1) of this section, but which satisfies the acceptance criteria of paragraph (f)(2) of this section, shall be returned to the Standard Review Committee for reconsideration. The committee, by the affirmative vote of not less than three-quarters of all members eligible to vote, may submit the recommended standard without change to the Department with a recommendation that the standard be published as a Voluntary Product Standard. The Department shall then conduct a public rulemaking hearing in accordance with the requirements of law as set forth in section 553 of Title 5, United States Code, to assist it in determining whether publication of the standard is in the public interest. If the Department determines that publication of the standard is in the public interest, the standard shall be published as a Voluntary Product Standard.

§ 10.7 Procedure when a recommended standard is not supported by a consensus.

If the Department determines that a recommended standard is not supported by a consensus, the Department may:

(a) Return the recommended standard to the Standard Review Committee for further action, with or without suggestions;

(b) Terminate the development of the recommended standard under these procedures; or

(c) Take such other action as it may deem necessary or appropriate under the circumstances.

§ 10.8 Standing Committee.

(a) The Department shall establish and appoint the members of a Standing Committee prior to the publication of a standard. The committee may include members from the Standard Review Committee, and shall consist of qualified representatives of producers, distributors, and users or consumers of the product covered by the standard, and representatives of appropriate general interest groups such as municipal, State, and Federal agencies. When requested by the Standing Committee, the Department shall appoint one voting member from among the representatives of the Federal agencies, other than the Department of Commerce. When requested by the Standing Committee for PS 20-70, "American Softwood Lumber Standard," the Department shall appoint two voting members from among the representatives of the Federal agencies, other than the Department of Commerce. All other representatives of Federal agencies shall be advisory nonvoting members of Standing Committee.

(Alternates to committee members may be designated by the Department.)

When deemed appropriate by the Department, project funds under § 10.2, may be made available to assure participation by consumer interests on the committee at required meetings.

(b) Appointments to a Standing Committee may not exceed a term of 5 years. However, the committee may be reconstituted by the Department whenever appropriate, and members may be reappointed by the Department to succeeding terms. Appointments to the committee will be terminated upon the withdrawal of the standard.

(c) The Department shall be responsible for the organization of the committee. Any formal operating procedures developed by the committee shall be subject to approval by the Department. The committee may conduct business either in a meeting or through correspondence, but only if a quorum participates. A quorum shall consist of two-thirds of all voting members of the committee. A majority of the voting members of the committee participating shall be required to approve any actions taken by the committee except for the approval of revisions of the standard which shall be governed by the provisions of § 10.5, (b), (c), and (d).

(d) The members of a Standing Committee should be knowledgeable about:

(1) The product or products covered by the standard;

(2) The standard itself; and

(3) Industry and trade practices relating to the standard.

(e) The committee shall:

(1) Keep itself informed of any advancing technology that might affect the standard;

(2) Provide the Department with interpretations of provisions of the standard upon request;

(3) Make recommendations to the Department concerning the desirability or necessity of revising or amending the standard;

(4) Receive and consider proposals to revise or amend the standard; and

(5) Recommend to the Department the revision or amendment of a standard.

§ 10.9 Publication of a standard.

A Voluntary Product Standard published by the department under these procedures shall be assigned an appropriate number for purposes of identification and reference. Public notice shall be given regarding the publication and identification of the standard. A voluntary standard by itself has no mandatory or legally binding effect. Any person may choose to use or not to use such a standard. Appropriate reference in contracts, codes, advertising, invoices, announcements, product labels, and the like may be made to a Voluntary Product Standard published under these procedures. Such reference shall be in accordance with such policies as the Department may establish, but no product may be advertised or represented in any manner which would imply or tend to imply approval or endorsement of that product by the Department or by the Federal Government.

§ 10.10 Review of published standards.

(a) Each standard published under these or previous procedures shall be reviewed regularly to determine the feasibility of transferring sponsorship to a private standards-writing organization. While the Department encourages the development of standards to replace Voluntary Product Standards by private standards-writing organizations, withdrawal of a Voluntary Product Standard, which meets the requirements of § 10.10(b), shall not be considered until a replacement standard is published.

(b) Each standard published under these or previous procedures shall be reviewed by the Department, with such assistance of the Standing Committee or others as may be deemed appropriate by the Department, within 5 years after initial issuance or last revision and at
least every 5 years thereafter. The purpose of this review shall be to determine whether the standard has become obsolete, technically inadequate, no longer acceptable to or used by the industry, or inconsistent with law or established public policy.

(c) If any of the above conditions is found to exist, the Department shall initiate action to amend, revise, or withdraw the standard in accordance with §10.11 or §10.13. If none is found to exist, the standard shall be kept in effect provided adequate funding is maintained.

§ 10.11 Revision or amendment of a standard.

(a) A published standard shall be subject to revision or amendment when it is determined to be inadequate by its Standing Committee or by the Department of one or more of the following reasons or for any other appropriate reasons:

(1) Any portion of the standard is obsolete, technically inadequate, or no longer generally acceptable to or used by the industry;

(2) The standard or any part of it is inconsistent with law or established public policy; or

(3) The standard or any part of it is being used to mislead users or consumers or is determined to be against the interest of users, consumers, or the public in general.

(b) A revision of a standard shall be considered by the Department to include changes which are comprehensive in nature, which have a substantive effect on the standards, which change the level of performance or safety or the design characteristics of the product being standardized, or which cannot reasonably be injected into a standard without disturbing the general applicability of the standard. Each suggestion for revision shall be submitted by the Department to the Standing Committee for appropriate consideration. The Standing Committee shall serve the same functions in the revision of a standard as the Standard Review Committee serves in the development of a new standard. The processing of a revision of a standard shall be dependent upon the age of the standard as computed from its effective date and shall be accomplished as follows:

(1) A proposed revision of a standard older than 5 years at the time such proposed revision is submitted to the Standing Committee by the Department shall be processed as a new standard under these procedures and, when approved for publication, the standard shall be republished and reidentified to indicate the year in which the revision became effective. The revised standard shall supersede the previously published standard.

(2) A proposed revision of a standard less than 5 years at the time such proposed revision is submitted to the Standing Committee by the Department shall be processed as a new standard except that:

(i) Distribution for acceptance or rejection shall be made to an appropriate list of producers, distributors, and users and consumers compiled by the Department;

(ii) If the revision affects only one subsection of the requirement section and/or only one subsection of the test methods section, it may be circulated separately for determining consensus and subsequently published as an addendum to the standard with appropriate dissemination and public notice of the addendum; and

(iii) If the revision does not change the level of performance or safety or the design characteristics of the product being standardized, the standard need not be reidentified.

(c) An amendment to a standard shall be considered by the Department to be any non-editorial change which is not comprehensive in nature, which has no substantive effect on the standard, which does not change the level of performance or safety or the design characteristics of the product being standardized, and which reasonably can be injected into a standard without disturbing the general applicability of the standard. Each suggestion for amendment shall be submitted by the Department to the Standing Committee for appropriate consideration. An amendment to a standard recommended by not less than 50 percent of the members of the committee eligible to vote and found acceptable by the Department, shall be published as an addendum (until the standard is republished) and distributed to acceptors of record. Public notice of the amendment shall be given and copies of the amendment shall be distributed to those filing written requests.

§ 10.12 Editorial changes.

The Department may, without prior notice, make such editorial or other minor changes as it deems necessary to reduce ambiguity or to improve clarity in any proposed, recommended, or published standard, or revision or amendment thereof.

§ 10.13 Withdrawal of a published standard.

(a) Standards published under these and previous procedures may be withdrawn by the Director of the National Bureau of Standards at any time. Such action will be taken if, after consultation with the Standing Committee as provided in paragraph (a)(1) of this section and after public notice, the Director determines that the standard is: Obsolete; technically inadequate; no longer generally acceptable to and used by the industry; inconsistent with law or established public policy; not in the public interest; or otherwise inappropriate; and revision or amendment is not feasible or would serve no useful purpose. Additionally, a standard may be withdrawn if it cannot be demonstrated that a particular standard has substantial public impact, that it does not duplicate a standard published by a private standards-writing organization, or that lack of government sponsorship would result in significant public disadvantage for legal reasons or for reasons of domestic and international trade. The Director may withdraw a standard if costs to maintain such a standard are not reimbursed by the proponent or other government agencies.

(1) Before withdrawing a standard published under these procedures, the Director will review the relative advantages and disadvantages of amendment, revision, development of a new standard, or withdrawal with the members of the Standing Committee, if such committee was appointed or reappointed within the previous five years.

(2) Public notice of intent to withdraw an existing standard published under these procedures shall be given and a 30-day period will be provided for the filing with the Director or written objections to the withdrawal. Such objections will be considered and analyzed by the Director before a determination is made to withdraw the standard. If the Director determines that a particular standard does not meet the criteria set out in §10.0(b), the standard will be withdrawn.

(b) The filing under paragraph (a) of this section of a request to retain a standard or standards shall operate to stay the withdrawal of such standard or standards until the Director's determination has been made. If the Director determines that the requested standard or standards shall be withdrawn, the stay will remain in effect, if an appeal is filed in accordance with the requirements of §10.14, until the decision of the Director is announced in the Federal Register. If, however, no appeal is received, the Director shall announce withdrawal of the particular standard or standards.

(c) Notice of the withdrawal action will be published in the Federal Register and such withdrawal will take effect 60 days from the date the withdrawal notice is published.
§ 10.14 Appeals.

(a) Any person directly affected by a procedural action taken by NBS or the
Standard Review Committee under §§ 10.5, 10.6 or 10.7 regarding the
development of a standard, by NBS or the Standing Committee under § 10.10
regarding the review of a published standard, or under § 10.11 regarding the
revision of a standard, or under § 10.13 regarding the withdrawal of a standard,
may appeal such action.

(b) Such appeal shall be filed in written form with the body taking the
action complained of (NBS, the Standard Review Committee, or the Standing
Committee) within 30 days after the date of announcement of the action.

(c) If appeal is filed with the Standard Review Committee or the Standing
Committee, the Committee shall attempt to resolve the appeal informally. If the
appeal is filed with NBS, NBS with the consultation and advice of the Standard
Review Committee or the Standing Committee, whichever is appropriate,
shall attempt to resolve the appeal informally.

(d) If the appeal is to the Standard Review Committee or the Standing
Committee and the Committee is unable to resolve such an appeal informally, the
Committee shall hold a hearing regarding the appeal. Announcement of
the hearing shall be made to members of the Standard Review Committee or the
Standing Committee and all acceptors of record, when appropriate, as well as to other
known interests. Notice of the hearing shall be published in the Federal Register.

(g) The Deputy Director of NBS shall name two persons, who have not
been directly involved in the matter in dispute and who will not be directly or
materially affected by any decision made or to be made in the dispute, to sit
on the panel with the Deputy Director, who will act as presiding officer. The
presiding officer will have the right to exercise such authority as necessary to
ensure the equitable and efficient conduct of the hearing and to maintain
an orderly proceeding.

(h) The hearing will be an informal, nonadversary proceeding at which there
will be no formal pleadings or adverse parties. The hearing will be open to the
public. Witnesses shall submit a written presentation for the record seven days
prior to the hearing. A record will be made of the hearing. Copies of the
written statements and the record of the hearing will be available at cost.

(j) The appeals panel will make a recommendation to the Director of NBS.
The Director's decision on the appeal will be announced within 60 days
following the hearing and will be communicated to the complainant and
other interested parties by letter. Notice of the Director's decision shall be
published in the Federal Register.

§ 10.15 Interpretations.

(a) An interpretation of a Voluntary Product Standard may be obtained
through the submission of a written request. The request shall identify the
specific section of the standard involved.

(b) In the case of PS 29-70, the "American Softwood Lumber Standard,"
interpretations shall be made by the American Lumber Standards Committee
(ALSC) under the procedures developed by the ALSC and found acceptable to
NBS.

(c) In the case of the other Voluntary Product Standards, interpretations shall
be made by the appropriate Standing Committees under procedures
developed by those committees and found acceptable to NBS.

§ 10.16 Effect of procedures.

Nothing contained in these procedures shall be deemed to apply to the
development, publication, revision, amendment, or withdrawal of any
standard which is not identified as a "Voluntary Product Standard" by the
Department. The authority of the Department with respect to engineering
standards activities generally, including the authority to publish appropriate
recommendations not identified as "Voluntary Product Standards," is not
limited in any way by these procedures.