

Product Responsibility Best Practices	SUBJECT	Voluntary vs. Mandatory Standards		LAST UPDATE	July 2018	
	APPLIES TO	<ul style="list-style-type: none"> • Distributors • Suppliers 	FOCUS ON			Identify practical methods to understand and comply with voluntary standards
	QUICK LINKS	<ul style="list-style-type: none"> • PPAI Corporate Responsibility: www.ppai.org/corporate-responsibility • Consumer Product Safety Commission: www.cpsc.gov 			Intended for beginner compliance programs	

Italic grey text indicates a hyperlink listed in the Online Resources section of this document.

Voluntary Standards

There are thousands of voluntary standards addressing almost every type of consumer product on the market. These voluntary standards are considered industry best practices or “industry consensus” standards.

Who Makes Voluntary Standards?

The *American National Standards Institute (ANSI)*—a non-governmental organization (NGO)—is responsible for overseeing and accrediting voluntary standards in the U.S. Voluntary standards are developed by the private sector in conjunction with over 200 standards development organizations.

Regulators prefer for the industry to monitor itself through voluntary standards rather than through the legislative process. With the *National Technology Transfer and Advancement Act of 1995 (NTTAA)*, Congress further solidified that preference with legislation that requires federal agencies to defer to standards developed by “voluntary consensus standards bodies” and to participate in the process whenever possible.

How Are Voluntary Standards Developed?

The CPSC staff promotes safety by monitoring or providing technical support for voluntary standards activities covering a wide range of consumer products. Standard organizations like ASTM, CSA Group, ISO, UL, and others facilitate the development of voluntary standards for individual consumer products through voluntary standards committees. These committees bring together industry groups, technical experts, government agencies, and consumer groups to gain consensus on best practices for consumer product safety. Most voluntary standards committees are open to public participation. In some instances, there are memberships available for a membership fee.

16 CFR 1031.5 addresses the commission’s involvement in voluntary standards activities. The commission takes several factors into consideration in evaluating the effectiveness of the voluntary standard. This may lead to the commission finding that

a mandatory ruling will or will not be necessary. Factors taken into account for commission involvement as outlined in *16 CFR 1031.5* include:

- (a) *The likelihood the voluntary standard will eliminate or adequately reduce the risk of injury addressed and that there will be substantial and timely compliance with the voluntary standard.*
- (b) *The likelihood that the voluntary standard will be developed within a reasonable period of time.*
- (c) *Exclusion, to the maximum extent possible, from the voluntary standard being developed, of requirements which will create anticompetitive effects or promote restraint of trade.*
- (d) *Provisions for periodic and timely review of the standard, including review for anticompetitive effects, and revision or amendment as the need arises.*
- (e) *Performance-oriented and not design-restrictive requirements, to the maximum practical extent, in any standard developed.*
- (f) *Industry arrangements for achieving substantial and timely industry compliance with the voluntary standard once it is issued, and the means of ascertaining such compliance based on overall market share of product production.*
- (g) *Provisions in the standard for marking products conforming to the standard so that future Commission investigation can indicate the involvement of such products in accidents and patterns of injury.*
- (h) *Provisions for ensuring that products identified as conforming to such standards will be subjected to a testing and certification (including self-certification) procedure, which will provide assurance that the products comply with the standard.*

(i) *The openness to all interested parties, and the establishment of procedures which will provide for meaningful participation in the development of such standards by representatives of producers, suppliers, distributors, retailers, consumers, small business, public interests and other individuals having knowledge or expertise in the areas under consideration, and procedures for affording other due process considerations.*

After a standard is developed and published, the development committee will continue to meet periodically to evaluate the standard, its impact on the product category, injury data, and whether or not revisions or updates are necessary.

Mandatory Standards

Mandatory standards are standards that have been incorporated into a federal law and require compliance by law, regulation, government statute policy, or contractual agreement. Failure to comply with a mandatory standard usually results in sanctions such as civil or criminal penalties. Statute **16 CFR 1031.4b** dictates that the CPSC can only issue mandatory standards when no voluntary standards exist for a specific issue that adequately address the risk of injury, or when an industry fails to comply with established voluntary standards.

Voluntary standards can be “incorporated by reference” into U.S. law, which essentially makes the voluntary standard mandatory. By incorporating the toy-safety standard into the *Consumer Product Safety Improvement Act (CPSIA)* Congress responded to repeated issues and concerns over children’s product safety by taking the existing voluntary standard and making a mandatory standard.

Voluntary Standards vs. Mandatory Standards

Federal agencies can use statutory authority to enforce voluntary standards in a manner identical to how they enforce mandatory standards even if a voluntary standard is not incorporated by reference into a federal law.

Who Is Responsible For Ensuring Compliance?

Both suppliers and distributors are responsible for ensuring compliance with all regulations, laws, statutes, and standards. Regulators will investigate all parties within the supply chain to assess who should have known what, when they should have known it, and what they could or should have done to ensure compliance with standards whether voluntary or mandatory. It is always better to question and verify all compliance risks up front, as risk is not always quantifiable and assumptions or disregard leaves all parties exposed to civil penalties.

For all products in their lines, suppliers should:

- Use good manufacturing practices (GMP) in production process

- Have a detailed step-by-step risk assessment process in place
- Know the voluntary standards that are applicable
- Know the mandatory standards that are applicable
- Conduct regular audits to ensure continued compliance

Distributors should:

- Not presume that a product is compliance regardless of the size of the supplier or the relationship
- Do their own due diligence regarding all standards
- Ask many questions about compliance
- Require proof of compliance with all regulations, laws, statutes and standards

Summary

The CPSC considers voluntary standards to be the starting point from which to design a product. When designing and manufacturing products, always contact a voluntary standards organization to see if any standards are in place for a product or similar products. Even when there is not a direct standard for a product, using standards for similar products helps to mitigate risks, as the existing standard was based on the judgment of safety experts and other manufacturers.

Online Resources**How to Read Compliance Documents:** www.ppai.org/media/1838/pr-guide-how-to-read-compliance-documents.pdf**PPAI Tool for Distributor-Buyer Communication:** www.ppai.org/media/1797/pr-bp-communicating-compliance-with-end-buyers.pdf**PPAI Code of Conduct:** ppai.org/corporate-responsibility/ppai-code-of-conduct/**PPAI Product Responsibility Summit:** www.ppai.org/summit**PPAI Responsible Sourcing FAQs:** ppai.org/corporate-responsibility/product-responsibility/product-responsibility-faqs/**Sample Children's Product Certificate (CPC):** www.cpsc.gov/business--manufacturing/testing-certification/childrens-product-certificate-cpc/**Technical File Procedures:** http://www.export.gov/cemark/eg_main_017275.asp**PPAI Undue Influence Training:** <https://onlineeducation.ppai.org/products/psa-required-undue-influence>**Recalls:** www.recalls.gov**National Technology Transfer and Advancement Act of 1995:** <https://www.nist.gov/standardsgov/national-technology-transfer-and-advancement-act-1995>**CPSC Voluntary Standards:** <http://www.cpsc.gov/en/Regulations-Laws--Standards/Voluntary-Standards/Voluntary-Standards/>**CPSC Regulations, Laws & Standards:** <http://www.cpsc.gov/en/Regulations-Laws--Standards/>**Standards Organizations:** <http://ibr.ansi.org/Standards/>**Purchase Standards:** <http://webstore.ansi.org/>**16 CFR 1031:** http://www.ecfr.gov/cgi-bin/text-idx?SID=7dfb1d2d042f4432a0daafae1de24f2&mc=true&node=se16.2.1031_15&rgn=div8**Consumer Product Safety Improvement Act (CPSIA):** www.cpsc.gov/en/Regulations-Laws--Standards/Statutes/The-Consumer-Product-Safety-Improvement-Act/

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