

June 24, 2008

Mr. Charles Conner
Deputy Secretary
U.S. Department of Agriculture
Office of the Secretary
Washington, D.C. 20250

Subject: Response to Your Recent Letter

Dear Secretary Conner:

Thank you for your letters dated May 20 and June 6, 2008, regarding the Draft Standard for Trial Use Sustainable Agriculture Practice Standard (SCS-001) (the “Draft Standard”). The Leonardo Academy appreciates the Department’s interest in this ANSI process and the time you have taken to address issues raised during the development of the Draft Standard. You have raised questions about both the substance of the Draft Standard and the process that will be used to consider it. Your basic view is that the Draft Standard does not provide an adequate basis to move forward. As discussed in this letter, I do not agree. I encourage you and the stakeholders on whose behalf you write to continue to participate in the process that has been established for this standard.

Before addressing the specific concerns you have raised, allow me to state that, as the neutral facilitator of this process by an ANSI accredited standard developer, the Leonardo Academy’s position is not one of endorsement of the proposed Draft Standard for Trial Use but rather as guarantor of an open, transparent process in which all stakeholders will be represented. In addition, it is our responsibility to inform all stakeholders that, in accordance with ANSI standard setting procedures, the language of the Draft Standard may be revised in any measure up to its entirety by the multiple stakeholders comprising the Standards Committee. In the discussion that follows, we address your concerns with the process. We address your concerns about the standards in Attachment 1. Among other points, Attachment 1 addresses mischaracterizations referenced in your letter concerning how the Draft Standard addresses organic agricultural practices. Similar statements have been repeated in numerous questions and comments submitted to Leonardo Academy. Despite our efforts to clarify this point in written documents, on public phone calls and in presentations, this mischaracterization has been perpetuated. We hope our response will ensure that this issue is put to rest.

Background—The ANSI Process

In developing standards for final approval as ANSI standards, Leonardo Academy, like all ANSI Accredited Standards Developer, is required to follow its own procedures (the Leonardo Academy Standards Development Constitution), which in turn must follow the ANSI Essential Requirements for standard development. Both the Leonardo Academy Standards Development Constitution and the ANSI Essential Requirements for standard development are dedicated to the very requirements for voluntary standard development identified in the excerpts from OMB circular A-119 included in Attachment 2:

- Openness
- Balance of interest
- Due process
- An appeals process
- Consensus, which is defined as general agreement, but not necessarily unanimity, and includes a process for attempting to resolve objections by interested parties by interested parties, as long as all comments have been fairly considered, each objector is advised of the disposition of his or her objection(s) and the reasons why, and the consensus body members are given an opportunity to change their votes after reviewing the comments.

For your reference we have also attached copies of the Leonardo Academy Standards Development Procedures and the ANSI Essential Requirements (Attachment 3 and Attachment 4, respectively, included under separate cover).

The fact that both the Leonardo Academy Standards Development Constitution and the ANSI Essential Requirements for standard development mirror the OMB circular A-119 definition of the attributes of a voluntary consensus standard development process gives us confidence that, in spite of the apparent challenges, this process will provide for a balance of interests and will move toward the development of a consensus standard. We would like to emphasize that, beyond the participation of the voting members of the Standards Committee and the non-voting members of the supporting subcommittees and advisory groups, there is also a public comment process that provides everyone the opportunity to comment on the proposed standard once the Standards Committee has come to initial consensus on the final draft standard.

Role of the Federal Government in the ANSI Process

The ANSI process provides a valuable forum for all stakeholders to comment on the development of a standard—including federal agencies. The National Technology Transfer and Advancement Act, 15 USC § 272, directs federal agencies to participate in the process of developing voluntary consensual standards. Circular No. A-119 states that the use of such voluntary consensus standards is intended to eliminate the cost to the Government of developing its own standards and to decrease the cost of goods procured and the burden of complying with agency regulation, to provide incentives and opportunities to establish standards that serve national needs, to encourage long-term growth for U.S. enterprises and to promote efficiency and economic competition through harmonization of standards.

Circular A-119 provides that agency representatives may serve as members of voluntary consensus standards bodies. If they do so, they should participate actively and on an equal basis with other members, consistent with the procedures of those bodies, particularly in matters such as establishing priorities, developing procedures for preparing, reviewing, and approving standards, and developing or adopting new

standards. Active participation includes full involvement in discussions and technical debates and registering of opinions. Agency participation in voluntary consensus standards bodies does not necessarily connote agency agreement with, or endorsement of, decisions reached by such organizations.

Circular A-119 also comments that:

[a]gency representatives must not dominate [standard setting] bodies, and in any case are bound by voluntary consensus standards bodies' rules and procedures, including those regarding domination of proceedings by any individual. Regardless, such agency employees must avoid the practice or the appearance of undue influence relating to their agency representation and activities in voluntary consensus standards bodies.

Office of Management and Budget, Revised Circular A-119, 63 Fed. Reg. 8545, 8556 (Feb. 19, 1998). In this instance, I am concerned that the course set out in your letter is not consistent with the ANSI rules and procedures and the directive to avoid the appearance of undue influence by a federal agency. At the same time, I am appreciative of your interest in and views on the issues and welcome your participation in this standard development process.

The Draft Standard Development Process

Some of the key steps in the process to date and the future planned actions are shown in the table below.

Establishing an American National Standard for Sustainable Agriculture: Working Timeline

| When | What |
|-------------------------------------|---|
| April 13, 2007 | The publication of the DSTU was announced in ANSI <i>Standards Action</i> . |
| Oct 29-30, 2007 | First of two kick-off meetings. Held in Berkeley, California. |
| Monday, Dec 3, 2007 10-11am Pacific | Orientation teleconference with interested stakeholders to discuss the ANSI process and the Draft Standard. |
| Monday, Jan 7, 2008 10-11am Pacific | Orientation teleconference with interested stakeholders to discuss the ANSI process and the Draft Standard. |
| Monday, Feb 4, 2008 10-11am Pacific | Orientation teleconference with interested stakeholders to discuss the ANSI process and the Draft Standard. |
| Friday, Feb 29, 2008 | Second of two kick-off meetings. Held at Radisson Hotel Reagan National Airport, Arlington, VA. |
| Monday, July 7, 2008 | Applications from stakeholders due for submission to Leonardo Academy. |
| Monday, July 28, 2008 | Notification to stakeholders of Standards Committee and subcommittee assignments. |

Wednesday, September 10,
2008

First Standards Committee meeting. Time and location TBA.

Starting October 2008

Subcommittee meetings will start after the first Standards Committee Meeting, with various schedules for each subcommittee to be determined by each subcommittee.

As you can see, there has been extensive opportunity for all concerned parties to participate in the development process following the publication of The Draft in April, 2007. We have received a wide range of comments from all areas of the stakeholder spectrum, representing many different points of view. (See the Questions and Answers posted on our website for a summary of this participation.

http://www.leonardoacademy.org/download/Q&A_LEO&ANSI_SCS-001_0608.pdf.) As evidence of the inclusive process that has driven the development of the Draft Standard, more than one hundred organizations have applied to serve on the Standards Committee that will shape the final standard submitted to ANSI for ANSI approval. Thus we are at the stage of the development process where the decision-making process is really just beginning. With respect to your request for three observers to the Standards Committee for this standard (in your May 20, 2008 letter), I do not anticipate that non-participating observers will be involved in committee meetings; however, I am willing to work with you to address how to best structure your participation in this regard.

Next Steps

Moving forward, I assure you that the Leonardo Academy is fully committed to the ANSI process and to meeting ANSI's Essential Requirements of openness, due process, balance and consensus, which mirror the goals set forth in Office of Management and Budget Circular A-119. Ultimately, neither Leonardo Academy nor SCS will decide which portions of the Draft Standard will be included in the final standard submitted to ANSI for approval; this will be the responsibility of the Standards Committee. The Standards Committee will be a balanced group representing all four categories of stakeholders affected by the standard—producers, users, environmentalists and general interest organizations.

Once the Standards Committee approves the language to be submitted in the final standard, the standard will be made available for public comment. All comments will be addressed by the subcommittees and/or the Committee, and all commenters will be informed of the resolution of their comments. Any person who believes that they have been injured by the Committee's decisions may appeal, first to Leonardo Academy and ultimately to ANSI.

Conclusion

Given that the policy of the federal government, including the USDA, is to support and participate in the process of developing voluntary consensual standards, we believe it is inappropriate for the USDA to assert that the process for the Draft Standard should be abandoned. Instead, we encourage the USDA to remain involved in the development of the sustainable agriculture standard by participating in the ANSI process. Leonardo

Academy welcomes applications from one or more representatives of the USDA to serve on the Standards Committee or supporting subcommittees for SCS-001. The application period is open until July 7, 2008.

In closing, we greatly appreciate the USDA's engagement in this standard development process, both through its June 6th letter and through USDA staff participation in our conference calls and meetings to date. We have provided initial responses to the concerns raised in your letter, included with this letter as Attachment 1. In addition, we look forward to the opportunity to explore these issues more fully during our scheduled conference call with Jeremy Stump and Michael Schechtman of your staff on Wednesday, June 25, 2008.

Sincerely,

Michael Army
President
Leonardo Academy

cc:

Jeremy Stump, U.S. Department of Agriculture
Michael Schechtman, U.S. Department of Agriculture
Anne Caldas, ANSI

Attachment 1

Responses to Concerns Raised in USDA Letter

As you have pointed out in your letter, the 1990 Farm Bill's definition of sustainable agriculture provides valuable guidance on the subject of sustainability in agricultural practices. The elements of this definition—satisfying human food and fiber needs, enhancing environmental quality, sustaining economic viability, and enhancing the quality of life for farmers and society—are directly reflected in the framework of the current Draft Standard.

The Farm Bill's broad definition has clearly been successful in encouraging a wide array of practices and technologies and spawning tremendous innovation and thus has served its purpose well. The specific question at hand, however, relates to the range of practices that should be considered when companies voluntarily assert a public "sustainable agriculture" claim in the marketplace. Today, there is a growing proliferation of such claims, many of which clearly do not embody the full spectrum of issues addressed in the Farm Bill definition of sustainable agriculture. Purchasing entities are increasingly developing their own sustainability specifications, often without input from growers and without consistent guidelines. Consequently, numerous surveys have documented consumer confusion around the claim "sustainable" and other similar terms, as well as consumer skepticism and distrust of company-asserted "green" marketing claims. Additionally, in this global economy, US agriculture companies are increasingly being measured against sustainability standards developed overseas that are far more specific in nature than the definitions and standards currently available in the US.

With that in mind, here are preliminary responses to some to the specific concerns raised in your letter:

1. *The proposed standard identifies sustainable agriculture as a subset of certified organic agriculture as defined in the National Organic Program, with the proscriptions specific to that program.*

Comment: This statement of concern represents a misreading of the SCS-001 Draft Standard for Trial Use as currently drafted, one that has been repeated in numerous questions and comments submitted to Leonardo Academy by the same organizations that have submitted these concerns to your office. Despite our efforts to clarify this point in written documents, on public phone calls and in presentations, this mischaracterization has been perpetuated.

The opposite statement is, in fact, more factual. The draft standard recognizes that organic agriculture practices as defined under the US National Organic Program may be, though are not required to be, part of a larger set of sustainability practices. Organic practices are recognized as a level of best practice, but the draft standard recognizes that such practices are not always practical from a broader sustainability perspective.

2. *Producers meeting the draft standard would not be allowed to use modern biotechnology, synthetic fertilizers, or other modern technologies*

Comment: The Draft Standard for Trial Use is built around the principle of minimizing risk to human health and the environment while maintaining crop productivity. The type of technologies selected for use are left up to the producer's discretion with one exception, which is the case of genetically engineered planting materials, which are not permitted under the Draft. This provision reflects a precautionary approach that permeates many other sustainability labeling standards around the world, based on concerns about the potential unintended spread of genetic material. Of course, since this is a draft standard, the stakeholders involved in the committee work and those participating through the public comment process will ultimately determine whether this provision will remain in the final standard submitted for American National Standard approval. We anticipate a vigorous debate on this point.

3. *Moreover, while the draft standard claims to uphold the NOP as the standard producers should strive to achieve, the standard infringes on the integrity of the NOP in several ways. The draft standard permits deviations for individual crops from organic standards and conformance on a regional basis . . . Yet with these conflicting proposals, the draft standard suggests that one of its aims is to reduce confusion and disagreement over the term "organic," which has well defined in statute and regulation since at least 1990.*

Comment: Further to my comment above, while the draft standard does recognize organic practice in accordance with the NOP as a best practice level for pest management and soil fertility, it does not equate sustainability practice with organic practice. Today, US agriculture is welcome to adopt any aspect of the organic practice defined by the NOP. The Draft Standard does not alter this dynamic, nor does it allow producers to claim to be organic if they are not fully compliant with the requirements of the NOP or otherwise change or alter the NOP. Moreover, there is no language in the Draft Standard to indicate that one of its aims is to reduce confusion about organic. To the contrary, the Draft Standard includes the NOP as a normative reference.

4. *When it comes to creating a suite of standards for sustainable agriculture, experts managing nearly 1.4 billion acres of crop, forest and grazing lands need to be represented . . . This leads us to believe that national consensus on the basis of this document cannot be achieved.*

Comment: We are very cognizant of the need to have all sectors represented and we believe the process in place will accomplish that objective. The concerns you raise in your letter are common to all voluntary consensus efforts. We see many area of practice in which consensus can in fact be achieved. For instance, a review of many existing sustainability standards, including the USDA report you reference, suggests that there

may be wide consensus around issues such as water conservation, ecological conservation and integrated waste management. Labor protections may also be an area of widespread consensus, given that the Draft Standard essentially establishes minimum requirements that are already consistent with US labor law. Significant industry strides in food safety and quality, addressed in the Draft Standard, are also cause for optimism. In other areas, particularly pest management, soil fertility and crop variety selection, consensus is expected to be more difficult to achieve. However, observing other voluntary sustainability initiatives underway (e.g., the Roundtable for Sustainable Biofuels), there is ample precedent to indicate that a consensus position can be established even for some of the most contentious issues, such as the issue of allowing biotechnology options with sufficient environmental safeguards. In any event, given the time and effort that has been expended to date and the importance of this standard, abandonment now would be counterproductive.

Attachment 2
Excerpts from OMB CIRCULAR A-119, Revised: February 10, 1998
Section 4 and Section 7

4. What Are Voluntary, Consensus Standards?

a. For purposes of this policy, "voluntary consensus standards" are standards developed or adopted by voluntary consensus standards bodies, both domestic and international. These standards include provisions requiring that owners of relevant intellectual property have agreed to make that intellectual property available on a non-discriminatory, royalty-free or reasonable royalty basis to all interested parties. For purposes of this Circular, "technical standards that are developed or adopted by voluntary consensus standard bodies" is an equivalent term.

- (1) "Voluntary consensus standards bodies" are domestic or international organizations which plan, develop, establish, or coordinate voluntary consensus standards using agreed-upon procedures. For purposes of this Circular, "voluntary, private sector, consensus standards bodies," as cited in Act, is an equivalent term. The Act and the Circular encourage the participation of federal representatives in these bodies to increase the likelihood that the standards they develop will meet both public and private sector needs. A voluntary consensus standards body is defined by the following attributes:

- (i) Openness.
- (ii) Balance of interest.
- (iii) Due process.
- (vi) An appeals process.
- (v) Consensus, which is defined as general agreement, but not necessarily unanimity, and includes a process for attempting to resolve objections by interested parties, as long as all comments have been fairly considered, each objector is advised of the disposition of his or her objection(s) and the reasons why, and the consensus body members are given an opportunity to change their votes after reviewing the comments.

7. What Is The Policy For Federal Participation In Voluntary Consensus Standards Bodies?

Agencies must consult with voluntary consensus standards bodies, both domestic and international, and must participate with such bodies in the development of voluntary consensus standards when consultation and participation is in the public interest and is compatible with their missions, authorities, priorities, and budget resources.

a. What are the purposes of agency participation?

Agency representatives should participate in voluntary consensus standards activities in order to accomplish the following purposes:

- (1) Eliminate the necessity for development or maintenance of separate Government-unique standards.
- (2) Further such national goals and objectives as increased use of the metric system of measurement; use of environmentally sound and energy efficient materials, products, systems, services, or practices; and improvement of public health and safety.

b. What are the general principles that apply to agency support?

Agency support provided to a voluntary consensus standards activity must be limited to that which clearly furthers agency and departmental missions, authorities, priorities, and is consistent with budget resources. Agency support must not be contingent upon the outcome of the standards activity. Normally, the total amount of federal support should be no greater than that of other participants in that activity, except when it is in the direct and predominant interest of the Government to develop or revise a standard, and its timely development or revision appears unlikely in the absence of such support.

c. What forms of support may my agency provide?

The form of agency support may include the following:

- (1) Direct financial support; e.g., grants, memberships, and contracts.

- (2) Administrative support; e.g., travel costs, hosting of meetings, and secretarial functions.
- (3) Technical support; e.g., cooperative testing for standards evaluation and participation of agency personnel in the activities of voluntary consensus standards bodies.
- (4) Joint planning with voluntary consensus standards bodies to promote the identification and development of needed standards.
- (5) Participation of agency personnel.

d. Must agency participants be authorized?

Agency employees who, at Government expense, participate in standards activities of voluntary consensus standards bodies on behalf of the agency must do so as specifically authorized agency representatives. Agency support for, and participation by agency personnel in, voluntary consensus standards bodies must be in compliance with applicable laws and regulations. For example, agency support is subject to legal and budgetary authority and availability of funds. Similarly, participation by agency employees (whether or not on behalf of the agency) in the activities of voluntary consensus standards bodies is subject to the laws and regulations that apply to participation by federal employees in the activities of outside organizations. While we anticipate that participation in a committee that is developing a standard would generally not raise significant issues, participation as an officer, director, or trustee of an organization would raise more significant issues. An agency should involve its agency ethics officer, as appropriate, before authorizing support for or participation in a voluntary consensus standards body.

e. Does agency participation indicate endorsement of any decisions reached by voluntary consensus standards bodies?

Agency participation in voluntary consensus standards bodies does not necessarily connote agency agreement with, or endorsement of, decisions reached by such organizations.

f. Do agency representatives participate equally with other members?

Agency representatives serving as members of voluntary consensus standards bodies should participate actively and on an equal basis with other members, consistent with the procedures of those bodies, particularly in matters such as establishing priorities, developing procedures for preparing, reviewing, and approving standards, and developing or adopting new standards. Active participation includes full involvement in discussions and technical debates, registering of opinions and, if selected, serving as chairpersons or in other official capacities. Agency representatives may vote, in accordance with the procedures of the voluntary consensus standards body, at each stage of the standards development process unless prohibited from doing so by law or their agencies.

g. Are there any limitations on participation by agency representatives?

In order to maintain the independence of voluntary consensus standards bodies, agency representatives must refrain from involvement in the internal management of such organizations (e.g., selection of salaried officers and employees, establishment of staff salaries, and administrative policies). Agency representatives must not dominate such bodies, and in any case are bound by voluntary consensus standards bodies' rules and procedures, including those regarding domination of proceedings by any individual. Regardless, such agency employees must avoid the practice or the appearance of undue influence relating to their agency representation and activities in voluntary consensus standards bodies.

h. Are there any limits on the number of federal participants in voluntary consensus standards bodies?

The number of individual agency participants in a given voluntary standards activity should be kept to the minimum required for effective representation of the various program, technical, or other concerns of federal agencies.

i. Is there anything else agency representatives should know?

This Circular does not provide guidance concerning the internal operating procedures that may be applicable to voluntary consensus standards bodies

because of their relationships to agencies under this Circular. Agencies should, however, carefully consider what laws or rules may apply in a particular instance because of these relationships. For example, these relationships may involve the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), or a provision of an authorizing statute for a particular agency.

j. What if a voluntary consensus standards body is likely to develop an acceptable, needed standard in a timely fashion?

If a voluntary consensus standards body is in the process of developing or adopting a voluntary consensus standard that would likely be lawful and practical for an agency to use, and would likely be developed or adopted on a timely basis, an agency should not be developing its own government-unique standard and instead should be participating in the activities of the voluntary consensus standards body.

LEONARDO ACADEMY INC.

ANSI STANDARDS DEVELOPMENT CONSTITUTION

PROCEDURES FOR THE DEVELOPMENT AND MAINTENANCE OF ANSI STANDARDS BY LEONARDO ACADEMY INC.

1.0 General

- 1.1 **Intent** – These procedures apply to developing, revising, approving, reaffirming and withdrawing standards developed by the Leonardo Academy Inc. (LEONARDO). LEONARDO may create a number of different Standards Committees to develop and maintain different ANSI standards using these procedures. Each such LEONARDO Standards Committee created will follow the procedures spelled out in this document.
- 1.2 **Scope** – The development of sustainability standards for measuring the overall sustainability performance and reduced environmental impacts of individuals, families, businesses, government, other organizations, vehicles, events; and standards for emission reductions actions. The scope of these standards include:
 - 1.2.1 **Standards for Sustainable Organizations** (Sustainability Achievements of Organizations) that provide a scale for measuring the achievement of businesses, governments, government agencies and other organizations in reducing their negative impacts and increasing their positive impacts on the environment, the economy and society. Components of sustainable organization performance include both direct and indirect impacts on the land, water, and atmosphere, including the environmental impacts of supply chains for the goods and services purchased and/or produced by the organization.
 - 1.2.2 **Standards for Sustainable Vehicles** that provide a scale for measuring the achievements of manufacturers of vehicles and others in reducing the negative impacts of vehicles on the environment, the economy and society. Components of sustainable vehicle performance include both direct and indirect environmental impacts on the land, water, and atmosphere during all phases of the vehicle life, including manufacturing, operation, and end-of-life disposal.
 - 1.2.3 **Standards for Sustainable Events** that provide a scale for measuring the achievements of events organizers and participants in reducing the negative impacts of events on the environment, the economy and society. Components of sustainable event performance include both the direct and indirect impacts of the event on the land, water, and atmosphere as related to the goods and services consumed during the planning, implementation, and clean up phases of the event and other event-related activities.
 - 1.2.4 **Standards for Emissions Reductions** that quantify the emissions caused by individuals, businesses, government, and other organizations; quantify and credit emission reductions, quantify and credit emission sequestration and offsets; quantify and credit emission quantify emissions retirements and the quantify and

credit net emissions caused by individuals, businesses, government, and other organizations. This includes standards for emission reduction and emission allowance registries, banks and retirement programs.

- 1.3 **Standards Maintenance** – All standards shall be reaffirmed, revised, or withdrawn within 5 years from the original standard approval date, and every five years thereafter.
- 1.4 **American National Standards** – LEONARDO shall conform with the *American National Standards Institute (ANSI) Essential Requirements* and submit all ANSI required forms when developing and maintaining American National Standards.

2.0 Organization

- 2.1 **Standards Committees** – Standards Committees shall be established by LEONARDO and will be responsible for developing, maintaining, approving and achieving consensus on LEONARDO standards.
 - 2.1.1 *Membership* – membership on any LEONARDO Standards Committee is open to all interested parties, and shall be sufficiently diverse to ensure reasonable balance without dominance by any single interest group. There is no fee or charge for membership on a LEONARDO Standards Committee.
 - 2.1.2 *Application* – Individuals seeking membership on a LEONARDO Standards Committee shall submit a written request to the Secretariat:
 - 2.1.2.1 Stating their interest in the work of the Standards Committee and a willingness to participate,
 - 2.1.2.2 Stating their qualifications,
 - 2.1.2.2.1 A description of their personal qualifications and the role or roles they have played in the subject area of the standard development committee, actions they have taken to increase their organizations sustainability and the sustainability of its supply chain and of its customers or audience.
 - 2.1.2.2.2 A description of their company or organization and the role or roles it plays in the subject area of the standard development committee, actions their organization has taken to increase its own sustainability and the sustainability of its supply chain and of its customers or audience.
 - 2.1.2.2.3 Any other affiliations that might affect their interest category classification.
 - 2.1.2.3 Applicants shall identify the interest category they believe they represent. (See 2.1.3 Interest Categories).
 - 2.1.3 *Interest Categories* – all members of LEONARDO Standards Committees shall be classified as representatives of Producers, Users, Environmentalists or General Interest in accordance with the following definitions:

- 2.1.3.1 **Producers** – This category includes representatives of entities that produce or supply goods or services.
 - 2.1.3.2 **Users** – This category includes representatives of entities that use goods or services.
 - 2.1.3.3 **Environmentalists** – This category includes individuals and representatives of organizations focused on preserving and improving the environment.
 - 2.1.3.4 **General Interest** – This category includes individuals who are not primarily Producers, Users, or Environmentalists. This category includes, but is not limited to, educators and researchers, and representatives of government entities, technical societies, consumer groups, and non-profit organizations.
- 2.1.4 *Processing Applications* – The Secretariat shall promptly process all membership applications. For new Standards Committees, the Secretariat shall appoint the initial members of the Standards Committee, then the newly appointed Standards Committee shall: (a) review the interest categories of each committee member and confirm or reassign any of these interest category assignments as the new Standards Committee deems appropriate, (b) after any changes in interest category assignments, the new Standards Committee shall review the balance in the Standards Committee relative to the four interest categories in Section 2.1.3 and (c) make adjustments as necessary to provide balance among the interest categories per Section 2.1.4.3. For existing Standards Committees, the Secretariat shall recommend appropriate actions as they are received to the affected Standards Committee. The existing Standards Committee shall decide which interest category each applicant represents and accept or reject all applications. Rejected applicants shall have the right to appeal on procedural grounds in accordance with Section 6 Appeals. In accepting or rejecting applicants, consideration shall be given to the items in 2.1.4.1-2.1.4.6.
- 2.1.4.1 Need for additional members on the Committee
 - 2.1.4.2 Need for active participation by members of each interest category.
 - 2.1.4.3 Maintaining balance among the interest categories and avoiding dominance by a single interest category, individual or organization.
 - 2.1.4.4 Extent of interest expressed by the applicant and willingness to participate.
 - 2.1.4.5 Qualifications:
 - 2.1.4.5.1 Their personal qualifications and the role or roles they have played in the subject area of the standard development committee, actions they have taken to increase their organizations sustainability and the sustainability of its supply chain and of its customers or audience.
 - 2.1.4.5.2 The role or roles their company or organization plays in the subject area of the standard development committee,

actions their company or organization has taken to increase its own sustainability and the sustainability of its supply chain and of its customers or audience.

- 2.1.4.5.3 Any other affiliations that might affect their interest category classification.
- 2.1.4.6 Ability to materially contribute to the work of the Standards Committee.
- 2.1.5 *Balance* – No single interest category shall constitute a majority of the voting membership of a LEONARDO Standards Committee. However, temporary imbalance can exist due to membership resignations. No ballots will be issued during periods of Standards Committee imbalance.
- 2.1.6 *Standards Committee Size* – The Secretariat shall consider and may set the size of any Standards Committee. The suggested minimum is 9 and the suggested maximum is 31.
- 2.1.7 *Members per Organization* – There shall be a limit of one voting member from each company or organization on any Standards Committee, unless it can be demonstrated that a company or organization has interests in more than one category.
- 2.1.8 *Member Alternates* – Each member may designate an alternate from their organization.
- 2.1.9 *Standards Committee Officers: Chair, Vice-Chair, Secretary and Vice-Secretary* – The Secretariat shall recruit and appoint the Chair and Vice Chair of the Standards Committee. The Chair and Vice Chair of the Standards Committee may be recruited from outside of the Standards Committee, from people who have not applied to be on the Standards Committee, from Standards Committee applicants or from Standards Committee members. The Chair and Vice Chair of the Standards Committee serve at the hand of the Secretariat. The Chair and Vice Chair of the Standards Committee are voting members of the Standards Committee. The committee Secretary and Vice-Secretary shall be appointed by the Secretariat. The Secretary and Vice-Secretary need not be members of the committee, and, if not committee members, will not vote on committee decisions (see 2.2 Secretariat). Standards Committee Officers shall serve until a successor is selected and ready to serve.
- 2.1.10 *Review of Membership* – The Secretariat shall establish and review the membership roster annually for each Standards Committee and report to each Standards Committee documenting the classification of each member and the achievement of balance. Members of any Standards Committee may be terminated under two conditions:
 - 2.1.10.1 Automatic termination for failure to return two successive ballots, or
 - 2.1.10.2 Automatic termination for failure to participate in at least 33 percent of the conference calls and meetings held by the Standards Committee, or
 - 2.1.10.3 Termination subject to Standards Committee approval if a member habitually, and after receiving prior warning, is in default of

obligations including attending meetings and completing correspondence.

- 2.1.10.4 The Secretariat may set reasonable lengths for each term of membership on each Standards Committee and when such terms are completed the committee membership for the each affected member will end. Committee members who reached the end of their term may reapply for Committee membership.
- 2.1.10.5 The Secretariat may set reasonable limits on the number of terms a Committee member may serve on each Standards Committee and when any such term limits are reached committee membership for the affected members will end. Committee members who have reach the end of their limit in number of terms served may reapply for Committee membership after an absence of at least one term.
- 2.1.11 *Changes in Employment or Business Relationships* – Standards Committee members shall notify the Secretariat of any changes in employment or business relationships affecting the interest category represented by the member and shall submit a new application if continued membership on the Standards Committee is desired.
- 2.1.12 *Subcommittees, Task Groups, Advisory Groups, and Resource Groups* – Subcommittees, Task Groups, Advisory Groups and Resource Groups may be established by the Chair, Secretariat or Standards Committee for the purpose of assisting the Standards Committee in drafting standards, considering comments or negative votes on portions of the standards, interpretations, considering appeals and other advisory functions.
 - 2.1.12.1 Membership on Subcommittees, Task Groups, Advisory Groups and Resource Groups may include persons who are not members of a main Standards Committee.
 - 2.1.12.2 Balance is not required for Subcommittees, Task Groups, Advisory Groups and Resource Groups. A roster of all Subcommittees, Task Groups, Advisory Groups and Resource Groups shall be maintained by the Secretariat.
 - 2.1.12.3 Subcommittee Chairs shall be members of the main Standards Committee and shall be appointed by the Standards Committee Chair.
 - 2.1.12.4 Subcommittee members shall be appointed by the Subcommittee Chair, with the concurrence of the Secretariat.
- 2.2 **Secretariat** – LEONARDO shall be responsible for providing and maintaining the Secretariat for all Standards Committees. The secretariat shall:
 - 2.2.1 Organize the Standards Committees.
 - 2.2.2 Oversee compliance with these procedures.
 - 2.2.3 Maintain rosters of any Standards Committees, Subcommittees, Task Groups, Advisory Groups and Resource Groups and a list of their specific responsibilities.

- 2.2.4 Perform administrative work including arranging meetings, preparation and distribution of agendas, minutes, ballots, draft standards and maintaining adequate records.
- 2.2.5 Submit candidate standards approved by the Standards Committee and any other required information to ANSI for review and approval as an American National Standard.
- 2.2.6 Publish approved standards and subsequent revisions.
- 2.2.7 Perform other administrative functions as required.

3.0 Meetings

- 3.1 **Frequency and Location** – Standards Committee meetings shall be held as frequently as decided upon by the committee, the chair, the secretariat, or by petition of five or more members. Meetings by conference calls will be the most common type of meeting for Standards Committees in order to make these meetings convenient for the Committee members. When face to face meetings are scheduled, the locations shall be convenient for all members and may include participation by conference call for those who cannot participate in person. Subcommittee meetings may be called by the Chair of the Subcommittee with approval of Standards Committee Chair and the Secretariat.
- 3.2 **Notification** – At least 30 days written notice shall be given for meetings of all Leonardo Standards Committees. An agenda shall be prepared and distributed with the meeting notice.
- 3.3 **Quorum** – One half of a Standards Committee’s members or their alternates empowered by proxies shall constitute a quorum. Both members and alternates are allowed to vote on any committee matter, with an alternate’s vote counting only if the member does not vote. In such cases, the alternate will be recorded as the voting party. Members can also delegate their votes to proxies by advising the Committee Chair or Secretary which items being voted on are to be delegated to his or her proxy for vote. If a quorum is not present, the committee can still vote on actions, with these votes becoming official only when votes have been received from at least half of the Committee (constituting a quorum) before, during, or after the meeting.
- 3.4 **Executive Sessions** – executive sessions shall be permitted for the purpose of considering administrative, financial and similar sensitive issues not related to the technical content of standards and consideration of ballots and public comments.
- 3.5 **Parliamentary Procedures** – Robert’s Rules of Order (revised) shall apply on questions of meeting procedure.

4.0 Voting

- 4.1 **Letter Ballots** – Approval, revision, reaffirmation, withdrawal, substantial changes and interpretations of standards shall be approved by written letter (including electronic) ballot.
- 4.2 **Administrative Ballots** – Editorial changes to a standard and other committee business may be decided by a majority of the members present at a meeting.

- 4.3 **Vote** – Each member of the Committee shall vote one of the following positions:
 - 4.3.1 Affirmative;
 - 4.3.2 Affirmative with comment;
 - 4.3.3 Negative with reasons (if possible should include specific wording or action that would resolve the objection);
 - 4.3.4 Abstain
- 4.4 **Voting Period** – Closing date for letter ballots is 30 days after mailing of the ballots. The Committee Chair may grant extensions.
- 4.5 **Approved Actions** – Actions identified in Section 4.1 shall be considered approved when all of the following conditions have been met:
 - 4.5.1 At least one half of the members have returned their letter ballot.
 - 4.5.2 The majority of the votes cast, excluding abstentions and negatives without reasons, are affirmative.
 - 4.5.3 All negative votes with reasons have been addressed in accordance with 4.7.
- 4.6 **Reporting Votes** – the results of each vote on standards shall be reported as follows:
 - 4.6.1 Number of voting members
 - 4.6.2 Number of affirmative votes
 - 4.6.3 Number of negative votes with reasons
 - 4.6.4 Number of negative votes without reasons
 - 4.6.5 Number of abstentions
 - 4.6.6 Number of unreturned ballots
- 4.7 **Negative Votes With Reasons** – all negative votes with reasons shall be referred by the Secretariat to the Standards Committee Chair or the Subcommittee responsible for the part of the standard in question. The Secretariat shall provide the Committee with draft proposed resolutions for each negative vote with reasons. The following procedure shall then be used by the Committee or Subcommittee in attempting to resolve negative votes:
 - 4.7.1 The Committee or Subcommittee will review each negative vote with reasons and the draft proposed resolution and modify as necessary to finalize the proposed resolution. The response/resolution to negative ballots will be presented to the original objector, who will then be given the opportunity to change his or her vote based on the response/resolution.
 - 4.7.2 In cases where negative comments remain unresolved or substantial revisions are made to the Standards as part of the proposed resolution, all members of the consensus body will be given the opportunity to respond, reaffirm, or change their vote. Committee members will be presented with the original version of the relevant section of the standard, an explanation of this section the standard, the objector’s comments, and the proposed response/resolution.
 - 4.7.3 If resolution with negative voters cannot be reached through the activities described in 4.7.1 and 4.7.2, they shall be notified of their right to appeal via the process described in Section 6.”

- 4.8 **Negative Votes Without Reasons** – Any negative vote not accompanied by reasons shall be recorded as “negative without reason” and reported to ANSI via BSR-9 submittals. No committee or subcommittee actions to pursue resolution of negative votes without reasons are required.
- 4.9 **Comments Accompanying Affirmative Votes or Abstentions** – The Standards Committee shall receive copies of all comments accompanying affirmative votes and abstentions, and shall review these comments to determine what, if any, actions will be taken by the Committee to address these comments.
- 4.10 **Addressing Public Review Comments** When a proposed new American National Standard is announced in *Standards Action* for formal ANSI public review in accordance with Section 8.2, the public comments received shall be addressed as follows:
- 4.10.1 **Public Review Comments Containing Objections** – All public comments with objections shall be referred to the Standards Committee Chair or the Subcommittee responsible for the part of the standard in question to attempt resolution. The Committee may request the Secretariat to obtain further information from the commentator or attempt to correspond with the commentator directly. If substantial changes to the standard are required then the changes are subject to letter ballot. If changes are not made to the standard, then the response to the negative comment is subject to approval by vote of the Standards Committee. Any such unresolved public review objections shall be handled in the same manner as those resulting from the vote of the consensus body (4.7).
- 4.10.2 **Public Review Comments Without Objections**– The Standards Committee shall receive copies of all Public Review Comments that do not contain objections and shall review these comments to determine what, if any, actions will be taken by the Committee to address these comments.

5.0 Interpretations

- 5.1 **Processing Interpretations** – Requests for interpretations of Standards shall be submitted in writing to the Secretariat and shall be forwarded by the Secretariat to the Chair, Secretary and Vice-Secretary. Proposed interpretations may be prepared by the Chair, Secretary, Vice-Secretary or any other Standards Committee member with particular expertise on the subject in question. All proposed interpretations shall be prepared in writing and shall be submitted to the Secretariat for a letter ballot of the Standards Committee. Interpretations shall be approved in accordance with Section 4.5: Approved Actions.
- 5.2 **Notification of Interpretations** – Notification of approved interpretations shall be sent in writing to the requester. Other users of the standard will also be notified through a LEONARDO website or other means.

6.0 Procedural Appeals

- 6.1 **Procedural Appeals** – Persons who have been or may be affected by any Secretariat or Committee action or inaction shall have the right to appeal such action or inaction. The

appellant shall file a written appeal with the Secretariat within 30 days after the date of notification of any action, or at any time with respect to inaction. The appeal shall state the nature of the procedural objection, the procedures or the sections of the Standards that are at issue, the action or inaction at issue, and the specific remedial action(s) that would satisfy the appellant's concerns. There is no filing fee for an appeal.

- 6.2 **Response** – Within 30 days after receipt of the appeal, the Secretariat shall respond in writing to the appellant, specifically addressing each procedural issue in the appeal to the extent possible. The Secretariat shall attempt to resolve, informally, the appeal with the appellant.
- 6.3 **Procedural Appeals Panel and Hearing** – If the Secretariat is unable to informally resolve the complaint, it shall appoint an appeals panel to hold a hearing on a date agreeable to all participants, with at least 15 working days notice. Appeals Hearings may be held by conference call. The appeals panel shall consist of three individuals who have not been directly involved in the dispute and who will not be materially affected by any decision made in the dispute. The Secretariat will maintain a three person appeals panel so that appeals can be addressed expeditiously.
- 6.4 **Conduct of the Procedural Appeals Hearing**
 - 6.4.1 The appellant has the responsibility of demonstrating improper action or inaction relative to these procedures, the adverse effects there from, and the efficacy of the requested remedial action.
 - 6.4.2 The Secretariat has the responsibility to demonstrate that the Secretariat and the Committee took all actions in question in compliance with these procedures.
 - 6.4.3 The Appeals Panel has the responsibility to determine whether (a) the procedural standards in this document were followed or (b) the procedural standards in this document were not followed. If the Appeals Panel determines that the procedural standards in this document were not followed, it shall identify the specific procedural standards in this document that were not followed and direct the Secretariat and Standards Committee to correct these procedural errors and repeat the portion of the standard development and approval process that was affected by these procedural errors.
- 6.5 **Decision** – The appeals panel shall render its decision in writing within 30 days of the hearing, based upon a preponderance of the evidence, stating its findings of fact and conclusions, with reasons therefore and citing the evidence. The Secretariat shall notify the appellant and the Committee of the decision of the appeals panel, which shall be binding and final on all concerned.
- 6.6 **Further appeal** – Further appeal may be made directly to ANSI. If the appellant gives notice to LEONARDO that such a further appeal to ANSI is intended, all relevant materials, including the decision made by the appeals panel set forth above, shall be submitted to ANSI by LEONARDO.

- 7.0 **Records** – Standards Committee records concerning new, revised, or reaffirmed standards shall be retained for at least one complete standards cycle (until the standard is revised, withdrawn or reaffirmed). Records concerning withdrawn standards shall be retained for at least five years from the date of withdrawal.

8.0 Public Review

- 8.1 **Notification that a Standard will be Developed, Revised or Reaffirmed** – At the initiation of a project to develop, revise or reaffirm an American National Standard, the Secretariat shall notify ANSI using the Project Initiation Notification System Form (PINS). In accordance with the ANSI Essential Requirements, this will include an explanation of the need for the standard and an identification of the affected stakeholders. All comments resulting from the filing of PINS (Project Initiation Notification System) with ANSI shall be addressed in accordance with clause 2.5 of the current version of the *ANSI Essential Requirements*. The Secretariat shall announce the activity related to this standard in suitable media as appropriate to demonstrate the opportunity for participation by all directly and materially affected parties.
- 8.2 **Public Review of a Standard** – When the Standards Committee has completed the development of a proposed new American National Standard there shall be an opportunity for public comment. When a proposed new American National Standard is ready for public comment, the Secretariat shall notify ANSI using the BSR-8 (Standards Action Public Review Request Form). The Secretariat shall announce this opportunity for public comment in suitable media as appropriate to demonstrate the opportunity for participation by all directly and materially affected parties.
- 8.2.1 **Processing Public Comments** – All comments on the content of a standard will be addressed according to Section 4.10 and 4.11.

9.0 Correspondence

- 9.1 **Internal Committee Correspondence** – All official Standards Committee correspondence shall be distributed by the secretariat. All correspondence distributed by the secretariat may be in the form of emails, web postings, faxes, hard copies or other suitable means selected by the secretariat. Correspondence from a Standards Committee or Subcommittee member to the entire membership of the Standards Committee or Subcommittee shall be forwarded to the Secretariat for approval and distribution.
- 9.2 **External Correspondence** – Inquires relating to the Standards Committee and Standards shall be directed to the Secretariat. Standards Committee members should advise individuals who contact them that responses to all inquires are handled by the Secretariat.

10.0 Metric Policy – Any units found in LEONARDO standards will be either U.S. customary units plus International System of Units (SI) or SI units alone.

11.0 Patent Policy – If any LEONARDO standard requires the use of a patented invention, the Standards Committee will follow ANSI's patent policy that clearly defines the influence a patent holder shall have on users of the standard (ANSI Essential Requirements Section 3.1).

12.0 Revisions to These Procedures – These Operating Procedures may be revised by LEONARDO. Any such proposed revisions shall be submitted by LEONARDO to ANSI for review and approval. Any revisions to these Operating Procedures shall be effective upon approval by ANSI.

13.0 Draft Standards for Trial Use

13.1 A Standards Committee or the Secretariat may choose to issue a draft standard for trial use.

13.2 Process for Issuing a Draft Standard for Trial Use (DSTU)

13.2.1 The Secretariat shall notify ANSI with the required DSTU registration form that a draft standard for trial use is being issued. An announcement that a DSTU is being issued will thereafter be published in Standards Action. The Secretariat shall announce this standards activity in suitable media as appropriate to demonstrate the opportunity for participation by all directly and materially affected parties.

13.2.1.1 Materially affected parties may challenge the decision to register a DSTU with ANSI on procedural grounds, using the appeals process in Section 6.

13.2.2

The Secretariat shall include the following language on the front cover of the draft standard: “This draft standard has been approved by Leonardo Academy for publication for trial use and comment. It is anticipated that within (__) months this draft standard will be revised as necessary and be filed with ANSI for approval as and ANSI Standard. For this reason distribution and use of this draft standard for trial use is limited to (__) months after its publication as an ANSI draft standards for trial use. Before the revised version of this draft standard for trial use can be submitted to ANSI for approval as an ANSI standard it must go through a public comment process. This Draft Standard is not an ANSI standard. Please direct any comments or suggestions for revisions to this draft standard to the LEONARDO Standards Secretariat.

13.2.3 These procedures are in compliance with the requirements for the registration of Draft Standards for Trial Use with ANSI, as described in Annex B of the *ANSI Essential Requirements*. By following these procedures, LEONARDO may refer to a resulting document as a *Draft American National Standard for Trial Use*.

LEONARDO will not use the ANSI logo or trademark on any document that has not been approved as an ANSI standard.

13.2.4 LEONARDO will comply with the ANSI Patent Policy for all Draft Standards for Trial Use registered with ANSI.

14.0 National Adoption of ISO or IEC Standards as American National Standards - If

LEONARDO decides to adopt ISO or IEC standards as ANSI standards, LEONARDO shall comply with the ANSI expedited procedures for the process specified in the “Procedures for National Adoption of ISO or IES Standards as American National Standards” and this LEONARD procedures document.

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ANSI Essential Requirements: Due process requirements for American National Standards

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ANSI Essential Requirements: Due process requirements for American National Standards

1.0 Essential requirements for due process

These requirements apply to activities related to the development of consensus for approval, revision, reaffirmation, and withdrawal of American National Standards (ANS).

Due process means that any person (organization, company, government agency, individual, etc.) with a direct and material interest has a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal. Due process allows for equity and fair play. The following constitute the minimum acceptable due process requirements for the development of consensus.

1.1 Openness

Participation shall be open to all persons who are directly and materially affected by the activity in question. There shall be no undue financial barriers to participation. Voting membership on the consensus body shall not be conditional upon membership in any organization, nor unreasonably restricted on the basis of technical qualifications or other such requirements.

1.2 Lack of dominance

The standards development process shall not be dominated by any single interest category, individual or organization. Dominance means a position or exercise of dominant authority, leadership, or influence by reason of superior leverage, strength, or representation to the exclusion of fair and equitable consideration of other viewpoints.

1.3 Balance

The standards development process should have a balance of interests. Participants from diverse interest categories shall be sought with the objective of achieving balance.

1.4 Coordination and harmonization

Good faith efforts shall be made to resolve potential conflicts between and among existing American National Standards and candidate American National Standards.

1.5 Notification of standards development

Notification of standards activity shall be announced in suitable media as appropriate to demonstrate an opportunity for participation by all directly and materially affected persons.

1.6 Consideration of views and objections

Prompt consideration shall be given to the written views and objections of all participants, including those commenting on the PINS announcement or public comment listing in *Standards Action*.

1.7 Consensus vote

Evidence of consensus in accordance with these requirements and the accredited procedures of the standards developer shall be documented.

1.8 Appeals

Written procedures of an ANSI-Accredited Standards Developer (ASD) shall contain an identifiable, realistic, and readily available appeals mechanism for the impartial handling of procedural appeals regarding any action or inaction. Procedural appeals include whether a technical issue was afforded due process.

1.9 Written procedures

Written procedures shall govern the methods used for standards development and shall be available to any interested person.

1.10 Compliance with normative American National Standards policies and administrative procedures

All ANSI-Accredited Standards Developers (ASDs) are required to comply with the normative policies and administrative procedures established by the ANSI Executive Standards Council or its designee.

2.0 Benchmarks

This section contains information relative to the implementation of the *Essential Requirements* set forth in Section 1.0 of this document and articulates the normative policies and administrative procedures associated with the ANS process.

2.1 Openness

Timely and adequate notice of any action to create, revise, reaffirm, or withdraw a standard, and the establishment of a new consensus body shall be provided to all known directly and materially affected interests. Notice should include a clear and meaningful description of the purpose of the proposed activity and shall identify a readily available source for further information. In addition, the name, affiliation¹ and interest category of each member of the consensus body shall be made available to interested parties upon request.

2.2 Lack of dominance

Unless it is claimed in writing (including electronic communications) by a directly and materially affected party that a single interest category, individual or organization dominated the standards development process, no test for dominance is required.

2.3 Balance

Historically the criteria for balance are that a) no single interest category constitutes more than one-third of the membership of a consensus body dealing with safety-related standards or b) no single interest category constitutes a majority of the membership of a consensus body dealing with other than safety-related standards.

The interest categories appropriate to the development of consensus in any given standards activity are a function of the nature of the standards being developed. Interest categories shall be discretely defined, cover all materially affected parties and differentiate each category from the other categories. Such definitions shall be available upon request. In defining the interest categories appropriate to a standards activity, consideration shall be given to at least the following:

- a) producer;
- b) user;
- c) general interest.

Where appropriate, additional interest categories should be considered.²

Appropriate, representative user views shall be actively sought and fully considered in standards activities. Whenever possible, user participants shall be those with the requisite technical knowledge, but other users may

¹ “Affiliation” refers to the entity that the consensus body member represents (which may or may not be that person’s employer). If the consensus body member is serving in an individual capacity, then the name of the individual, that person’s employer, sponsor and interest category should be available. Contact information is not required.

² Further interest categories that may be used to categorize directly and materially affected persons consist of, but are not limited to, the following: a) Consumer; b) Directly affected public; c) Distributor and retailer; d) Industrial/commercial; e) Insurance; f) Labor; g) Manufacturer; h) Professional society; i) Regulatory agency; j) Testing laboratory; k) Trade association.

also participate. User participation should come from both individuals and representatives of organized groups. There are several user categories:

1. User-consumer: Where the standards activity in question deals with a consumer product, such as lawn mowers or aerosol sprays, an appropriate consumer participant's view is considered to be synonymous with that of the individual user – a person using goods and services rather than producing or selling them.
2. User-industrial: Where the standards activity in question deals with an industrial product, such as steel or insulation used in transformers, an appropriate user participant is the industrial user of the product.
3. User-government: Where the standards activity in question is likely to result in a standard that may become the basis for government agency procurement, an appropriate user participant is the representative of that government agency.
4. User-labor: Where the standards activity in question deals with subjects of special interest to the American worker, such as products used in the workplace, an appropriate user participant is a representative of labor.

2.4 Coordination and harmonization

Good faith efforts shall be made to resolve potential conflicts between and among existing American National Standards and candidate American National Standards.

2.4.1 Definition of Conflict

Conflict within the ANS process refers to a situation where, viewed from the perspective of a future implementer, the terms of one standard are inconsistent or incompatible with the terms of the other standard such that implementation of one standard under terms allowable under that standard would preclude proper implementation of the other standard in accordance with its terms.

2.4.2 Coordination/Harmonization

ANSI-Accredited Standards Developers shall make a good-faith effort to resolve potential conflicts and to coordinate standardization activities intended to result in harmonized American National Standards³. A "good faith" effort shall require substantial, thorough and comprehensive efforts to harmonize a candidate ANS and existing ANSs. Such efforts shall include, at minimum, compliance with all relevant sections of these procedures⁴. Developers shall retain evidence of such efforts in order to demonstrate compliance with this requirement to the satisfaction of the appropriate ANSI body.

2.5 Notification of standards development and coordination

Notification of standards activity shall be announced in suitable media as appropriate to demonstrate the opportunity for participation by all directly and materially affected persons. At the initiation of a project to develop or revise an American National Standard⁵, notification shall be transmitted to ANSI using the Project Initiation Notification System (PINS) form, or its equivalent, for announcement in *Standards Action*. A statement shall be submitted and published as part of the PINS announcement that shall include:

- (a) an explanation of the need for the project, including, if it is the case, a statement of intent to submit the standard for consideration as an ISO or ISO/IEC JTC-1 standard; and
- (b) identification of the stakeholders (e.g., telecom, consumer, medical, environmental, etc.) likely to be directly impacted by the standard.

³ Note that clause 4.2.1.3.4 *Withdrawal for Cause* provides a mechanism by which an interested party may at any time request the withdrawal of an existing ANS.

⁴ See, for example, clauses 2.1, 2.4, 2.5, 2.6 and 4.3.

⁵ Including the national adoption of ISO and IEC standards as American National Standards.

Developers are encouraged to consult any relevant international or regional guides that may impact the proposed standard and shall advise the relevant ANSI-Accredited U.S. TAG(s) if the standard is intended to be submitted for consideration as an ISO or ISO/IEC JTC-1 standard. If the response to sub-section (b) changes substantively as the standard is developed, a revised PINS shall be submitted and published. A PINS form may be submitted, but is not required, at the initiation of a project to reaffirm or withdraw an American National Standard. Comments received in connection with a PINS announcement shall be handled in accordance with these procedures.

A PINS is not required for revisions of an American National Standard that is maintained under continuous maintenance and (1) is registered as such on the ANSI website, (2) has a notice in the standard that the standard is always open for comment and how to submit comments, and (3) has information on the developer's website that the standard is under continuous maintenance and how to submit comments. A PINS is also not required in connection with the decision to maintain an ANS under the stabilized maintenance option.

If a developer receives written comments within 30 days from the publication date of a PINS announcement in *Standards Action*, and said comments assert that a proposed standard duplicates or conflicts with an existing American National Standard (ANS) or a candidate ANS that has been announced previously in *Standards Action*, a mandatory deliberation of representatives from the relevant stakeholder groups shall be held within 90 days from the comment deadline. Such a deliberation shall be organized by the developer and the commenter and shall be concluded before the developer may submit a draft standard for public review. If the deliberation does not take place within the 90-day period and the developer can demonstrate that it has made a good faith effort to schedule and otherwise organize it, then the developer will be excused from compliance with this requirement. The purpose of the deliberation is to provide the relevant stakeholders with an opportunity to discuss whether there is a compelling need for the proposed standards project. The outcome of such a deliberation shall be conveyed in writing by the developer and commenter (ideally as a joint submission) to the ANSI Board of Standards Review (BSR) for consideration should the developer ultimately submit the related candidate standard to ANSI for approval. In the case of ANSI Audited Designators, the Audited Designator shall review the results of the deliberation prior to designating a standard as an ANS. While the outcome is not binding, participants are encouraged to develop a consensus on whether and how the standards development project should proceed.

In addition, proposals for new American National Standards and proposals to revise, reaffirm, or withdraw approval of existing American National Standards shall be transmitted to ANSI using the BSR-8 form, or its equivalent, for listing in *Standards Action* in order to provide an opportunity for public comment. If it is the case, then a statement of intent to submit the standard for consideration as an ISO or ISO/IEC JTC-1 standard shall be included as part of the description of the scope summary that is published in *Standards Action*. The comment period shall be one of the following:

- A minimum of thirty days if the full text of the revision(s) can be published in *Standards Action*;
- A minimum of forty-five days if the document is available in an electronic format, deliverable within one day of a request, and the source (e.g., URL or an E-mail address) from which it can be obtained by the public is provided to ANSI for announcement in *Standards Action*; or
- A minimum of sixty days, if neither of the aforementioned options is applicable.

Such listing may be requested at any stage in the development of the proposal, at the option of the standards developer, and may be concurrent with final balloting. However, any substantive change subsequently made in a proposed American National Standard requires listing of the change in *Standards Action*.

2.6 Consideration of views and objections

Prompt consideration shall be given to the written views and objections of all participants, including those commenting on the PINS announcement or public comment listing in *Standards Action*.

In connection with an objection articulated during a public comment period, or submitted with a vote, an effort to resolve all expressed objections accompanied by comments related to the proposal under consideration shall be made, and each such objector shall be advised in writing (including electronic communications) of the disposition of the objection and the reasons therefor. If resolution is not achieved, each such objector shall be informed in writing that an appeals process exists within procedures used by the standards developer. In addition, except in the case of Audited Designators, each objection resulting from public review or submitted by a member of the consensus body, and which is not resolved (see definition) must be reported to the ANSI BSR.

When this process is completed in accordance with the written procedures of the standards developer, the standards developer may consider any comments received subsequent to the closing of the public review and comment period, or shall consider them in the same manner as a new proposal. Timely comments that are not related to the proposal under consideration shall be documented and considered in the same manner as submittal of a new proposal. The submitter of the comments shall be so notified.

Each unresolved objection and attempt at resolution, and any substantive change made in a proposed American National Standard shall be reported to the consensus body in order to afford all members of the consensus body an opportunity to respond, reaffirm, or change their vote.

2.7 Evidence of consensus and consensus body vote

Evidence of consensus in accordance with these procedures and the accredited procedures of the standards developer shall be documented. Consensus is demonstrated, in part, by a vote of the consensus body. The developer's procedures shall state specifically how consensus will be determined.

An example of the criteria for consensus includes a requirement that a majority of the consensus body cast a vote (counting abstentions) and at least two-thirds of those voting approve (not counting abstentions). The developer may submit for approval an alternative methodology for determining consensus.

The consensus body vote shall be conducted and reported in accordance with the rules set forth herein. Votes for the approval of a document or portion thereof as a candidate ANS may be obtained by letter, fax, recorded votes at a meeting or electronic means. All members of the consensus body shall have the opportunity to vote. When recorded votes are taken at meetings, members who are absent shall be given the opportunity to vote before or after the meeting.

1. ANSI-Accredited Standards Developers (ASDs) shall not change a vote unless instructed to do so by the voter. If the change of vote was not submitted in writing by the voter, then written confirmation of such a vote change shall be provided to the voter by the developer. It is never appropriate for an ASD to inform voters that if they are not heard from, their negative vote will be considered withdrawn and their vote will be recorded as an abstention or an affirmative. All negative votes that are not changed at the request of the voter shall be recorded and reported to the BSR as unresolved negatives by any ASD that has not been granted the authority to designate its standards as American National Standards without approval by the BSR.
2. ASDs shall record and consider all negative votes accompanied by any comments that are related to the proposal under consideration. This includes negative votes accompanied by comments concerning potential conflict or duplication of the draft standard with an existing American National Standard and negative votes accompanied by comments of a procedural or philosophical nature. These types of comments shall not be dismissed due to the fact that they do not necessarily provide alternative language or a specific remedy to the negative vote.
3. ASDs are not required to consider negative votes accompanied by comments not related to the proposal under consideration, or negative votes without comments. The ASD shall indicate conspicuously on the letter ballot that negative votes must be accompanied by comments related to the proposal and that votes unaccompanied by such comments will be recorded as "negative without comments" without further notice to the voter. If comments not related to the proposal are submitted with a negative vote, the comments shall be documented and considered in the same manner as submittal of a new proposal. If clear instruction is provided on the ballot, and a negative vote unaccompanied by comments related to the proposal is received notwithstanding, the vote may be counted as a "negative without comment" for the purposes of establishing a quorum and reporting to ANSI. However, such votes (i.e., negative vote without comment or negative vote accompanied by comments not related to the proposal) shall not be factored into the numerical requirements for consensus, unless the ASD's procedures state otherwise. The ASD is not required to solicit any comments from the negative voter. The ASD is not required to conduct a recirculation ballot of the negative vote. The ASD is required to report the "no" vote as a "negative without comment" when making their final submittal to the BSR unless the ASD has been granted the authority to designate its standards as American National Standards without approval by the BSR.
4. The ASD shall maintain records of evidence regarding any change of an original vote.

5. Except in regard to votes on membership and officer-related issues, each member of a consensus body should vote one of the following positions (or the equivalent):
 - a) Affirmative;
 - b) Affirmative, with comment;
 - c) Negative, with reasons (the reasons for a negative vote shall be given and if possible should include specific wording or actions that would resolve the objection);
 - d) Abstain.
6. For votes on membership and officer-related issues, the affirmative/negative/abstain method of voting shall be followed. Votes with regard to these issues need not be accompanied by reasons and need not be resolved or circulated to the consensus body.

2.8 Appeals

The provision for appeals is important for the protection of directly and materially affected interests and of standards developers and is required as a part of due process. This section gives general criteria regarding the right to appeal, to whom appeals are made and what may be appealed.

2.8.1 Right to Appeal: Appeals at the standards developer level

The written procedures of an ANSI-Accredited Standards Developer (ASD) shall contain an identifiable, realistic, and readily available mechanism for the impartial handling of procedural appeals regarding any action or inaction. Appeals shall be addressed promptly and a decision made expeditiously. A standards developer may choose to offer an appeals process to address appeals on other than procedural issues. Procedural appeals include whether a technical issue was afforded due process. Appeals procedures shall provide for participation by all parties concerned without imposing an undue burden on them. Consideration of appeals shall be fair and unbiased and shall fully address the concerns expressed.

Persons who have directly and materially affected interests and who have been or will be adversely affected by any procedural action or inaction by a standards developer with regard to the development of a proposed American National Standard or the revision, reaffirmation, or withdrawal of an existing American National Standard, have the right to appeal. The burden of proof to show adverse effect shall be on the appellant. Appeals of actions shall be made within reasonable time limits; appeals of inactions may be made at any time. Appeals shall be directed to the standards developer responsible for the action or inaction in accordance with the appeals procedures of the standards developer. If a fee for a procedural appeal is charged, then it shall be predetermined, fixed and reasonable. A procedure for requesting a fee waiver or fee reduction shall be available.

2.8.2 Right to Appeal: Appeals at ANSI

Persons who have directly and materially affected interests and who have been or will be adversely affected by any procedural action or inaction by ANSI or by any ANS-related process have the right to appeal. ANSI will not normally hear an appeal of an action or inaction by a standards developer relative to the development of an American National Standard until the appeals procedures provided by the standards developer have been completed. Appeals of actions shall be made within reasonable time limits; appeals of inactions may be made at any time. Such appeals shall be directed to ANSI in accordance with the procedures of the appropriate ANSI board or council (e.g., Board of Standards Review, Executive Standards Council).

3.0 Normative American National Standards Policies

Every ANSI-Accredited Standards Developer (ASD) shall comply with the normative policies contained in this section. The ASD may choose to: 1) include the text that follows, as appropriate, in its accredited procedures along with any additional information as required; or 2) submit to ANSI a written statement of full compliance with these policies in addition to policy statements that satisfy the requirements set-forth in this section.

3.1 ANSI patent policy - Inclusion of Patents in American National Standards

There is no objection in principle to drafting an American National Standard (ANS) in terms that include the use of an essential patent claim (one whose use would be required for compliance with that standard) if it is considered that technical reasons justify this approach.

If an ANSI-Accredited Standards Developer (ASD) receives a notice that a proposed ANS or an approved ANS may require the use of such a patent claim, the procedures in this clause shall be followed.

3.1.1 Statement from patent holder

The ASD shall receive from the identified party or patent holder either:

- a) assurance in the form of a general disclaimer to the effect that such party does not hold and does not currently intend holding any essential patent claim(s); or
- b) assurance that a license to such essential patent claim(s) will be made available to applicants desiring to utilize the license for the purpose of implementing the standard either:
 - i) under reasonable terms and conditions that are demonstrably free of any unfair discrimination; or
 - ii) without compensation and under reasonable terms and conditions that are demonstrably free of any unfair discrimination.

3.1.2 Record of statement

A record of the patent holder's statement shall be retained in the files of both the ASD and ANSI.

3.1.3 Notice

When the ASD receives from a patent holder the assurance set forth in 3.1.1.b above, the standard shall include a note substantially as follows:

NOTE – The user's attention is called to the possibility that compliance with this standard may require use of an invention covered by patent rights.

By publication of this standard, no position is taken with respect to the validity of any such claim(s) or of any patent rights in connection therewith. If a patent holder has filed a statement of willingness to grant a license under these rights on reasonable and nondiscriminatory terms and conditions to applicants desiring to obtain such a license, then details may be obtained from the standards developer.

3.1.4 Responsibility for identifying patents

Neither the ASD nor ANSI is responsible for identifying patents for which a license may be required by an American National Standard or for conducting inquiries into the legal validity or scope of those patents that are brought to their attention.

3.2 Commercial terms and conditions

Provisions involving business relations between buyer and seller such as guarantees, warranties, and other commercial terms and conditions shall not be included in an American National Standard. The appearance that a standard endorses any particular products, services or companies must be avoided. Therefore, it generally is not acceptable to include manufacturer lists, service provider lists, or similar material in the text of a standard or in an annex (or the equivalent). Where a sole source exists for essential equipment, materials or services necessary to comply with or to determine compliance with the standard, it is permissible to supply the name and address of the source in a footnote or informative annex as long as the words "or the equivalent" are added to the reference. In connection with standards that relate to the determination of whether products or services conform to one or more standards, the process or criteria for determining conformity can be standardized as long as the description of the process or criteria is limited to technical and engineering concerns and does not include what would otherwise be a commercial term.

3.3 Evidence of compliance

ANSI-Accredited Standards Developers shall retain records to demonstrate compliance with all aspects of these and the developer's accredited procedures. Such records shall be available for audit as directed by the ANSI Executive Standards Council (ExSC).

3.3.1 An ANSI-Accredited Standards Developer has three options relative to new, revised or reaffirmed American National Standards maintained under the periodic maintenance option (see 4.7.1):

1. Records shall be retained for one complete standards cycle, or until the standard is revised.
2. Records shall be retained based on the formula established by the ANSI ExSC as set-forth in the *ANSI Auditing Policy and Procedures*.
3. A developer that does not choose option 1 or option 2 will be audited more frequently and shall retain all records for all standards approved⁶ as ANS subsequent to the most recent ANSI audit until completion of the current audit.

3.3.2 An ANSI-Accredited Standards Developer has three options relative to new, revised or reaffirmed American National Standards maintained under the continuous maintenance option (see 4.7.2):

1. Records shall be retained for a minimum of five (5) years or until approval of the subsequent revision or reaffirmation of the complete standard.
2. Records shall be retained based on the formula established by the ANSI ExSC as set-forth in the *ANSI Auditing Policy and Procedures*.
3. A developer that does not choose option 1 or option 2 will be audited more frequently and shall retain all records for all standards approved as ANS subsequent to the most recent ANSI audit until completion of the current audit.

3.3.3 An ANSI-Accredited Standards Developer has three options relative to American National Standards maintained under the stabilized maintenance option (see 4.7.3):

1. Records shall be retained until the standard is reaffirmed, revised, or subsequently reviewed in connection with the stabilized maintenance of the standard as an ANS.
2. Records shall be retained based on the formula established by the ANSI ExSC as set-forth in the *ANSI Auditing Policy and Procedures*.
3. A developer that does not choose option 1 or option 2 will be audited more frequently and shall retain all records for all standards approved as ANS subsequent to the most recent ANSI audit until completion of the current audit.

Records concerning withdrawals of all American National Standards shall be retained for at least five years from the date of withdrawal or for a duration consistent with the audit schedule.

3.4 Metric policy

Each ANSI-Accredited Standards Developer shall have on file at ANSI a metric policy. International System of Units (SI) are the preferred units of measurement in American National Standards.

⁶ Approved: the approval process and appeals processes at ANSI have concluded.

3.5 Interpretations policy

Each ANSI-Accredited Standards Developer shall have on file at ANSI an interpretations policy. Official interpretations of American National Standards shall be made only by the accredited standards developer responsible for maintenance of that standard. ANSI shall not issue, nor shall any person have the authority to issue, an interpretation of an American National Standard in the name of the American National Standards Institute. Requests for interpretations addressed to ANSI shall be referred to the responsible standards developer.

4.0 Normative American National Standards Administrative Procedures

This section articulates the administrative and processing requirements associated with the American National Standards process.

4.1 Accreditation of American National Standards Developers

A standards developer whose procedures meet the requirements of due process and criteria for approval and withdrawal of American National Standards contained herein may apply to ANSI for accreditation. To be accredited by ANSI, the developer's procedures and practices for standards development shall meet the criteria for accreditation as set forth below. The ANSI Executive Standards Council (ExSC) is the accrediting body for developers of American National Standards. Accreditation is a pre-condition for submitting a standard for consideration for approval as an American National Standard.

4.1.1 Criteria for accreditation

Accreditation shall be based on compliance, as determined by the ANSI ExSC, with the following criteria:

- a) the operating procedures used for the development of evidence of consensus for approval, revision, reaffirmation, or withdrawal of standards as American National Standards shall satisfy the essential requirements contained herein;
- b) with respect to American National Standards or candidate American National Standards, including the national adoption of ISO or IEC standards as American National Standards, the applicant shall agree to:
 - 1) provide continuity of administrative oversight and support of its standards activities;
 - 2) provide for designation, publication, and maintenance of the standard(s) produced;
 - 3) provide for an appeals mechanism;
 - 4) cooperate with ANSI in standards planning and coordination activities of mutual interest;
 - 5) advise ANSI of the initiation and scope of new standards activities and revisions of existing standards expected to result in candidate American National Standards;
 - 6) submit to ANSI for public comment the requisite information concerning activities related to new candidate American National Standards and the national adoption of ISO or IEC standards as American National Standards as well as the revision, reaffirmation, or withdrawal of American National Standards;
 - 7) consider applicable international standards;
 - 8) comply with the procedures contained herein with respect to the national adoption of ISO and IEC standards as American National Standards; and
 - 9) pay to ANSI all relevant fees.
- c) as appropriate to the extent to which the applicant is involved with standardization, the applicant shall consider participation in international standards activities through ANSI; and
- d) with respect to submitting proposed American National Standards to ANSI for Board of Standards Review (BSR) approval, the applicant shall agree to comply with the normative policies and administrative procedures contained herein.

4.1.2 Application for Accreditation as a Developer of American National Standards

Application to ANSI for accreditation shall be in writing and shall include copies of the pertinent standards developing procedures and other documentation demonstrating compliance with the criteria specified in these procedures. If more than one set of standards developing procedures is used by an applicant, each procedure requires separate review for accreditation. The applicant shall submit its scope for informational purposes only, a description of its present program of standards activities and a list of candidate American National Standards. Also included shall be a statement from the applicant that details their coordination efforts to date and confirms their agreement to attempt to coordinate their standards activities with other ANSI-Accredited Standards Developers and with ANSI.

A notice announcing the application for accreditation shall be published in *Standards Action* with a call for comment. Copies of the pertinent standards developing procedures shall be available from the applicant, upon request.

Following the comment period, the ExSC shall consider the information supplied by the applicant and any comments and responses received, including reports on coordination from the appropriate ExSC designee if any, standards advisors, and the BSR. If comments are submitted that challenge support for an applicant's accreditation, the applicant shall supply evidence of such support for consideration by the commenter and the ExSC. The ExSC shall determine whether accreditation should be approved. The applicant must satisfy the requirements established in the *ANSI Essential Requirements* before accreditation can be granted. If, during the course of the accreditation process, the developer makes a change to their originally submitted scope or to their originally submitted operating procedures, an additional announcement shall be published in *Standards Action*. If, however, the developer makes changes to the originally submitted operating procedures at the specific direction of the ExSC or their designee in order to bring their procedures into compliance with the *ANSI Essential Requirements*, an informational announcement shall be placed in *Standards Action* without additional public review. Accreditation will not be granted to an applicant whose procedures do not satisfy the requirements set forth herein. In the event that accreditation is not granted, the ExSC shall advise the applicant of the reasons, and the applicant shall have the opportunity to reapply. Upon accreditation, the applicant shall be notified and a notice shall appear in *Standards Action*.

4.1.3 Maintenance of accreditation

The ANSI Audit Director, under the supervision of the ExSC, shall arrange for audits of accredited standards developers at selected intervals or, at the request of the ExSC, due to special circumstances (BSR request, appeals action, etc.) to confirm adherence to the criteria for accreditation and to confirm that the procedures and practices of the accredited standards developer continue to be consistent with those which formed the basis for accreditation. The ANSI Audit Director shall report the audit findings to the ExSC who in turn shall take appropriate action in accordance with the *ANSI Auditing Policy and Procedures*.

If an accredited standards developer does not maintain one or more approved American National Standards, then the developer shall submit their accredited procedures for review and approval by the ExSC on a five-year cycle as well as a justification as to why they have not submitted any standards to ANSI for approval and why their accreditation remains relevant. The ExSC may suspend or withdraw the accreditation if the justification is not provided or is otherwise unsatisfactory.

ANSI-Accredited Standards Developers granted authority to designate their standards as American National Standards without BSR approval shall submit to a regular audit in accordance with the *ANSI Auditing Policy and Procedures*. When ANSI issues revised or additional criteria for accreditation, the accredited standards developer shall comply with them within a reasonable time period designated by the ExSC in order to maintain accreditation.

Whenever any revision is made to a standards developer's procedures on record at ANSI, the ExSC shall be notified and provided with a detailed description of the changes. If the changes are considered by the ExSC to be non-substantive, the standards developer will be notified and, upon such notification, may begin to operate under the revised procedures. If the changes are considered by the ExSC to be substantive, notice of these changes shall appear in *Standards Action* with a call for comment. Copies of the revised procedures shall be made available by the applicant to any party, upon request. If a developer submits their procedures in an electronic format and authorizes ANSI to post them on *ANSI Online* for purposes of public review, then the associated call for comment period in ANSI's *Standards Action* shall be 30 days and shall be announced as such.

If the standards developer decides to implement revised procedures prior to the final approval of the ExSC, they may do so provided that a) records concerning the implementation are maintained and available for use by the

ANSI Audit Program; b) the developer certifies that the changes are in compliance with the *ANSI Essential Requirements*; and c) the developer accepts responsibility for all actions taken with regard to a candidate American National Standard, including resubmittal, if the ExSC does not approve a particular procedural provision.

Following the comment period, the ExSC shall consider the comments received, the latest status reports, the latest audit of the accredited standards developer, and any available additional information to determine whether to continue the accreditation. Notice of continuance shall be sent to the accredited standards developer and shall appear in *Standards Action*.

When the ExSC requests an accredited standards developer to revise its approved procedures to bring them into compliance with the *ANSI Essential Requirements*, the ExSC shall decide on a case-by-case basis whether reaccreditation, including public review, is also required.

4.1.4 Withdrawal of accreditation

The ExSC may advise and request any accredited standards developer to take corrective action if the conditions upon which accreditation was granted are not maintained. If such action is not taken within the time period designated, the ExSC shall provide at least a thirty day notice to the standards developer stating that, unless specified conditions are corrected, its accreditation and the approval of all American National Standards under all affected accreditations shall be withdrawn. Unless the necessary corrective actions are taken within the specified period, the ExSC shall withdraw the accreditation and approval of all affected American National Standards sponsored by the developer. The standards developer shall be notified of withdrawal of the accreditation and a notice shall appear in *Standards Action*.

4.2 Approval of actions in connection with American National Standards

A standard developed by an ANSI-Accredited Standards Developer may be approved as an American National Standard by the ANSI Board of Standards Review (BSR) or by an ANSI Audited Designator. In either case, the essential due process and consensus criteria defined herein shall apply. In addition, approval assures the user that each American National Standard is generally acceptable to the directly and materially affected interest categories that participated in the development of consensus for the standard.

A proposed new American National Standard or a proposed revision or reaffirmation of an American National Standard to be approved by the BSR shall be submitted to the secretary of the BSR within one (1) year from the close of the comment period listed in *Standards Action* using the appropriate form provided by ANSI, unless the standards developer notifies the secretary of the BSR in writing of good cause for a different schedule for submittal. Failure to make the submittal within two (2) years from the close of the comment period listed in *Standards Action* shall require consideration by the BSR, i.e., withdrawal, extension for cause, or another listing in *Standards Action*. ANSI-Accredited Standards Developers that have been granted the status of ANSI Audited Designator shall take action in connection with candidate American National Standards in a timeframe that is consistent with that specified for all other ANSI-Accredited Standards Developers.

4.2.1 Approval by the ANSI Board of Standards Review

Approval, withdrawal, revision or reaffirmation of an American National Standard is based on the evidence submitted that the requirements set forth herein have been met.

The ANSI Board of Standards Review (BSR) shall review standards submitted to ANSI with unresolved objections on record. This includes negative consensus body votes as well as public review comments. Standards submitted without objections and identical national adoptions processed in accordance with the expedited procedures contained in the *ANSI Procedures for the National Adoption of ISO and IEC Standards as American National Standards* may be administratively approved by the BSR. The BSR does not have jurisdiction over the standards of ANSI Audited Designators unless an ANSI Audited Designator chooses to submit one or more standards to the BSR for approval.

4.2.1.1 Criteria for approval of an American National Standard

With respect to any proposal to approve, revise or reaffirm an American National Standard (including the national adoption of an ISO or IEC standard as an American National Standard) for which one or more unresolved objections have been reported, the BSR shall evaluate whether:

- a) the standard was developed in accordance with the procedures upon which the developer was granted accreditation, with particular attention given to whether due process was followed, consensus was achieved, and an effort was made to resolve any objections to the standard;
- b) any appeal to the standards developer with respect to the standard was completed;
- c) notice of the development process for the standard was provided to ANSI in accordance with PINS or its equivalent;
- d) any identified conflict with another American National Standard was addressed in accordance with these procedures;
- e) other known national standards were examined with regard to harmonization and duplication of content and if duplication exists, there is a compelling need for the standard;
- f) ANSI's patent policy is met, if applicable;
- g) ANSI's policy on commercial terms and conditions is met if applicable;
- h) the standards developer provided the following or evidence thereof:
 - 1. title and designation of the proposed American National Standard;
 - 2. indication of the type of action requested (that is, approval of a new American National Standard or reaffirmation, revision, or withdrawal of an existing American National Standard);
 - 3. a declaration that applicable procedures were followed;
 - 4. a declaration that the proposed standard is within the scope of the previously registered standards activity;
 - 5. a declaration that conflicts with another American National Standard have been addressed in accordance with these procedures;
 - 6. a roster of the consensus body that indicates: the vote of each member including abstentions and unreturned ballots, if applicable; the interest category of each member; and a summary thereof;
 - 7. a declaration that all appeal actions related to the approval of the proposed standard have been completed;
 - 8. a declaration that the criteria contained in the ANSI patent policy have been met, if applicable; and
 - 9. identification of all unresolved negative views and objections, with names of the objector(s), and a report of attempts toward resolution.

If the BSR determines, based on the weight of the evidence presented, that the above-stated criteria have been satisfied, the standard shall be approved as an American National Standard. The BSR shall deny approval, if, based on the weight of the evidence presented, the BSR determines that the American National Standard:

- a) is contrary to the public interest;
- b) contains unfair provisions;
- c) is unsuitable for national use;

or that the ASD has failed to make a good faith effort to resolve conflicts.

Standards approved as American National Standards shall be designated, published, and maintained in accordance with the procedures contained herein. A substantive change that has not been afforded due process in accordance with these procedures may not be made in an approved American National Standard.

The BSR shall not approve standards that duplicate existing American National Standards unless there is a compelling need.

Notice of the BSR's final action on all standards shall be published in *Standards Action*.

4.2.1.2 Reaffirmation of an American National Standard

The due process and consensus requirements defined herein apply to reaffirmations as they do to all approval actions related to American National Standards. The procedures used for reaffirmation of an American National Standard by an accredited standards developer shall be implemented according to the developer's ANSI accredited procedures. Reaffirmations shall provide an opportunity for public comment.

Reaffirmations shall be accomplished without any substantive change to the main text of the standard. All non-substantive changes in the main text of the standard shall be explained, or noted, in a foreword. An American National Standard undergoing an update of references to standards necessary to implement the American National Standard shall be processed as a revision unless the updated reference is only a reaffirmation of the referenced standard. Any substantive changes in such references requires processing as a revision.

The designation of ANSI approval shall clearly indicate if the approval is a reaffirmation.

4.2.1.3 Criteria for withdrawal

4.2.1.3.1 Administrative withdrawal

An American National Standard shall be withdrawn five years following approval, if the standard has not been revised or reaffirmed, unless an extension has been granted by the ExSC or its designee. An American National Standard that has not been reaffirmed or revised within the five-year period, and that has been recommended for withdrawal by the ExSC or its designee, shall be withdrawn at the close of a 30-day public review notice in *Standards Action*. American National Standards that have not been revised or reaffirmed within ten years from the date of their approval as American National Standards shall be withdrawn and such action shall be announced in *Standards Action*.

4.2.1.3.2 Withdrawal by ANSI-Accredited Standards Developer

An American National Standard must be supported by an ANSI-Accredited Standards Developer. If an accredited standards developer wishes to withdraw its approval of one or more of its American National Standards, it may do so without a vote of the relevant consensus body. If an accredited standards developer does withdraw one or more of its American National Standards, then the standards developer shall notify ANSI immediately and the standard shall be withdrawn as an ANS and announced in *Standards Action*.

4.2.1.3.3 Discontinuance of a standards project

An accredited standards developer may abandon the processing of a proposed new or revised American National Standard or portion thereof if it has followed its accredited procedures. A written justification for such an action shall be made available upon receipt of any written request received by the accredited standards developer within 60 days of the date of the final action.

Appeals of such actions shall be made to the Executive Standards Council based on procedural noncompliance.

4.2.1.3.4 Withdrawal for Cause

Requests for withdrawal of an ANS for cause shall be approved by the BSR only upon a sufficient showing that one or more of the following conditions applies:

- a) ANSI's patent policy was violated;
- b) ANSI's requirements for designation, publication, and maintenance were violated;
- c) an American National Standard is contrary to the public interest;
- d) an American National Standard contains unfair provisions;
- e) an American National Standard is unsuitable for national use; or

- f) the ASD has failed to make a good faith effort to resolve conflicts.

Except in the case of an ANSI Audited Designator, an application for withdrawal of an American National Standard may be submitted to the BSR by any materially interested party or the ExSC. The application shall be accompanied by a filing fee. This fee may be waived or reduced upon sufficient evidence of hardship.

In such cases:

- a) the secretary of the BSR shall refer the request for withdrawal to the standards developer for the developer to review and respond within 30 calendar days to the requester and the secretary of the BSR;
- b) if the standards developer concurs with the proposed withdrawal, public notice shall be given and the standard shall be withdrawn in accordance with the developer's procedures;
- c) if the standards developer does not concur with the proposed withdrawal, the standards developer shall inform the requester and the secretary of the BSR and include reasons;
- d) the requester shall advise the secretary of the BSR, and the developer, within 30 calendar days of their receipt of the developer's response, either that the requestor wishes the withdrawal process to continue or not;
- e) if the requester requests continuance of the withdrawal process, the matter shall be referred to the BSR via letter ballot for decision on subsequent action.

Extensions of time to submit documentation related to a withdrawal for cause shall be granted at the discretion of the chairperson of the BSR, or if the chairperson is unavailable, by the secretary of the BSR. Extensions shall be requested prior to the deadline date and shall include a justification therefore.

If the BSR determines, based on the weight of the evidence presented, that one or more of the above-stated criteria have been satisfied, approval of the standard as an American National Standard shall be withdrawn. If the BSR determines, based on the weight of the evidence presented, that none of the above-stated criteria have been met, then approval of the standard as an American National Standard shall be maintained. The decision of the BSR in this regard shall not be appealed to the BSR, but may be appealed to the ANSI Appeals Board pursuant to section 11, *Appeals Process*, of the *ANSI Appeals Board Operating Procedures*.

4.2.1.4 Final notice

Notice of final action on all standards shall be published in *Standards Action*.

4.2.2 Approval of an American National Standard by an ANSI Audited Designator

A standard may be approved as an American National Standard by the ANSI Board of Standards Review or by an ANSI Audited Designator. An Audited Designator is an ANSI-Accredited Standards Developer to whom the ANSI Executive Standards Council has granted the authority to designate their standards as American National Standards without such standards being reviewed and approved by the ANSI Board of Standards Review. Requirements associated with ANSI Audited Designator status and their approval of standards as American National Standards are contained in Section 5 herein.

4.3 Planning, coordination and public notice

ANSI's planning and coordinating activities depend on the cooperation and participation of standards developers and affected interests. Various methods are used to plan and coordinate voluntary standards activities. A considerable amount of planning and coordinating activity routinely takes place at the standards development level by the standards writing consensus bodies or their subgroups. Specific coordination requirements are set-forth in other sections of this document.

Overall responsibility for ANSI's national and international planning and coordinating functions is assigned by the Board of Directors to the Executive Standards Council (ExSC). The ExSC delegates specific activities as opportunity and needs arise, appointing designees or standards advisors, as appropriate.

Coordination usually can be accomplished by standards developers through the implementation of one or more of the following:

- a) clear delineation of scope, purpose, and intended application of each standard;
- b) public notice of standardization activities;
- c) joint and cooperative activities of the individual organizations, including liaison representation;
- d) organization of an independent but representative body acceptable to the involved parties to coordinate standards needs and projects and to develop standards as required;
- e) liaison between national standards developers and the organization responsible for the U.S. position on corresponding international standards; and
- f) use of the ANSI PINS system.

To achieve a consistent set of American National Standards and to represent the United States in non-treaty international standards activities, it is necessary for ANSI to harmonize ongoing standards activity, minimize duplication, and avoid the promulgation of conflicting American National Standards.

The ExSC and/or its designee shall be alert to duplication of national standards activities. The ExSC or its designee shall notify standards developers of any identified potential or existing duplication of standards developing activities and request the standards developers involved to coordinate their activities and report the results.

Potential or existing conflicts identified or brought to the attention of the ExSC or its designee shall be investigated and harmonization initiated, if warranted. This process usually consists of:

- a) appointing an ad hoc group to investigate and report whether harmonization is necessary. The ad hoc group reports on the purpose and application of the standards as well as the structure and issues that led to the conflict;
- b) inviting the organizations involved to develop a harmonization plan, if it is determined that harmonization is necessary. The plan may include liaisons, joint consensus bodies, ad hoc groups, or other activities;
- c) publishing the results of harmonization efforts in *Standards Action* or elsewhere, as appropriate.

4.4 Designation of American National Standards

A standard that is approved as an American National Standard shall have its cover or title page marked with an approval logo⁷ furnished by ANSI or the words “an American National Standard.” In addition, American National Standards shall be marked in such a way as to identify the version of the standard or shall be identified by a unique alphanumeric designation in accordance with the guidelines contained herein.

The ANSI approval logo and the words “an American National Standard” shall not be used to identify any standard that has not received approval as an ANS by the ANSI Board of Standards Review or been approved by an accredited standards developer who has been granted authority to designate its standards as American National Standards.

Portions of a published document that were not approved through the full consensus process but contain information that may appear to be requirements necessary for conformance with the approved American National Standard (ANS) shall be (1) clearly identified at the beginning and end of each such portion of the document, or (2) such information shall be overprinted on the cover page. These portions of the document shall be marked with the following, or similar, explanatory language:

“The information contained in this (portion of a document) is not part of this American National Standard (ANS) and has not been processed in accordance with ANSI’s requirements for an ANS. As such, this (portion of a document) may contain material that has not been subjected to public review or a consensus process. In addition, it does not contain requirements necessary for conformance to the standard.”

⁷ An “Approved American National Standard” mark is available from ANSI.

American National Standards shall be identified by a unique alphanumeric designation (e.g., ANSI/ASD 123-2004). Multiple designations should be avoided. If a standard has multiple designations, an attempt shall be made by those concerned to arrive at a single designation.

4.5 Publication of American National Standards

American National Standards shall be published and made available as soon as possible, but no later than six months after approval as an American National Standard. The standards developer shall publish the standard or shall grant the right of publication to ANSI.

If an American National Standard is not published within six months following its approval, the standards developer may request an extension of this deadline from the ExSC or its designee. Such a request shall be in writing, shall supply the reason for the delay, and shall indicate a firm final date for publication. At its discretion, the ExSC or its designee may grant an additional period of time for publication.

The ExSC or its designee shall publish a notice in *Standards Action* of intent to withdraw approval if the standards developer a) fails to publish the standard or fails to grant ANSI the right to publish within six months after its approval as an American National Standard and does not request an extension of the deadline despite follow-up or b) fails to meet the extended deadline.

4.6 National Adoption of ISO or IEC Standards as American National Standards

ANSI-Accredited Standards Developers that wish to adopt an ISO or IEC standard as an American National Standard shall comply with the requirements set forth in the *ANSI Procedures for the National Adoption of ISO or IEC Standards as American National Standards*.

4.7 Maintenance of American National Standards

American National Standards shall be kept current and relevant by means of timely revision, reaffirmation or action to stabilize. Obsolete standards shall be withdrawn. Except in the case of the national adoption of ISO and IEC standards as American National Standards, when the maintenance provisions contained in the *ANSI Procedures for the National Adoption of ISO or IEC Standards as American National Standards* shall apply, standards developers are permitted three options – periodic maintenance, continuous maintenance or stabilized maintenance – as outlined below.

4.7.1 Periodic maintenance of American National Standards

Periodic maintenance is defined as the maintenance of a standard by review of the entire document and action to revise or reaffirm it on a schedule not to exceed five years from the date of its approval as an American National Standard.

In the event that a PINS or BSR-8/108 has not been submitted for an American National Standard within five years after its approval, the standards developer may request an extension of time to reaffirm or revise the standard, or shall withdraw the standard. The request for an extension of time shall be submitted to ANSI within thirty days following five years after the approval date of the American National Standard. Requests for extensions shall provide the program and schedule of work that will lead to revision, reaffirmation, or withdrawal. The extension may be granted by the ExSC or its designee.

No extension of time beyond ten years from the date of approval shall be granted for action on a standard. In no case shall a standard maintained under the periodic maintenance option retain its status as a current American National Standard beyond ten years from the date of approval. Such approval automatically expires on the tenth anniversary date of approval as an American National Standard.

In the event that an American National Standard approved by a standards developer who has been granted authority to designate its standards as American National Standards is not reaffirmed, revised, or withdrawn within five years after its approval, the standards developer shall follow its own procedures to ensure that work is proceeding and shall notify the Institute and provide the estimated time of completion. In no case shall a standard maintained under the periodic maintenance option retain its status as a current American National Standard beyond ten years from the date of approval. Such approval automatically expires on the tenth anniversary date of approval as an American National Standard.

4.7.2 Continuous maintenance of American National Standards

Continuous maintenance is defined as the maintenance of a standard by consideration of recommended changes to any part of it according to a documented schedule for consideration and action by the consensus body. The standard shall be maintained by an accredited standards developer. A documented program for periodic publication of revisions shall be established by the standards developer. Processing of these revisions shall be in accordance with these procedures. The published standard shall include a clear statement of the intent to consider requests for change and information on the submittal of such requests. Procedures shall be established for timely, documented consensus action on each request for change and no portion of the standard shall be excluded from the revision process. In the event that no revisions are issued for a period of four years, action to revise, reaffirm, or withdraw the standard shall be initiated in accordance with the procedures contained herein.

In the event that a BSR-8/108 has not been submitted for an American National Standard under continuous maintenance within five years of its approval, the standards developer may request an extension, but shall then maintain the ANS under periodic maintenance.

4.7.3 Stabilized maintenance of American National Standards

A standard that is maintained under the stabilized maintenance option shall satisfy the following eligibility criteria:

- a) the standard addresses mature technology or practices, and as a result, is not likely to require revision; and
- b) the standard is other than safety or health related; and
- c) the standard currently holds the status of American National Standard and has been reaffirmed at least once; and
- d) at least ten years have passed since the approval or last revision of the standard as an ANS; and
- e) the standard is required for use in connection with existing implementations or for reference purposes.

The due process and consensus requirements defined herein apply to the decision to maintain an ANS under the stabilized maintenance option. A developer who wishes to maintain one or more ANS under the stabilized maintenance option shall include a provision or notification to this effect in its accredited procedures

An ANS maintained under the stabilized maintenance option is not required to be revised or reaffirmed on a routine 5-year cycle; however, it shall be subject to review of such status by the sponsoring standards developer on a 10-year cycle. If it is determined in connection with this review that the standard shall continue to be maintained under the stabilized maintenance option and as such does not require revision or withdrawal, then this shall be communicated to ANSI by the standards developer and a related announcement shall be made in *Standards Action*. Notification to ANSI shall be accomplished via the submittal of an informational announcement if the standard will continue to be maintained under the stabilized maintenance option or will be withdrawn, or via a PINS, if the standard will be revised.

If a recommendation is made at any time by a materially affected and interested party that a standard maintained under the stabilized maintenance option requires revision or should be withdrawn, then that recommendation shall be considered in the same manner as a new proposal but within a maximum of 60 days from receipt. A recommendation should include rationale to begin a revision, and shall not be dismissed due to the fact that it does not necessarily suggest a specific revision. The submitter of such a recommendation shall be responded to in writing by the standards developer within 60 days of the receipt of the recommendation and advised of the decision relative to the maintenance status of the standard.

An ANS that is maintained under the stabilized maintenance option shall include a clear statement of the intent to consider requests for change and information on the submittal of such requests.

The decision to maintain an ANS under the stabilized maintenance option and the process by which it is maintained shall be subject to appeal to the standards developer. A subsequent appeal to ANSI may be made to the ANSI Executive Standards Council based on a claim of procedural non-compliance.

5.0 Normative policies and procedures for ANSI Audited Designators

An ANSI-Accredited Standards Developer who has demonstrated a “consistent record of successful voluntary standards development” may apply to ANSI at any time seeking the authority to designate its standards as American National Standards without approval by the BSR.

5.1 Application for ANSI Audited Designator Status

The applicant shall provide the information specified in a form developed by ANSI for this purpose. A notice announcing the application shall be published in *Standards Action* with a call for comment. Simultaneously, an initial audit of the applicant shall be scheduled, in accordance with the *ANSI Auditing Policy and Procedures*. At the conclusion of these actions, the Executive Standards Council (ExSC) shall consider the information supplied by the applicant, any comments and responses received, the audit results, and the initial audit responses, and will make a decision concerning the disposition of the application. In making a decision on such an application, the ExSC may request any additional information reasonably necessary to clarify issues raised by the application. Thereafter, ANSI shall: approve the application as submitted; approve the application contingent on receipt of certain additional assurances; or deny the application. Any decision to deny the application may thereafter be appealed by the applicant to the ANSI Appeals Board. When an application has been finally approved by ANSI, a notice so indicating shall be made in *Standards Action*.

5.2 Criteria for approval of ANSI Audited Designator Status

In determining whether an accredited standards developer has achieved a “consistent record of successful voluntary standards development,” the ANSI ExSC shall consider all evidence reasonably bearing on the issue, including the extent of the notice provided by the applicant concerning its development activities and the integrity of the other due process safeguards used by the applicant in conducting its work. A presumption shall exist that this test has been satisfied where a) the developer has been involved in voluntary standards development work for at least five (5) years, b) during that period, the BSR has approved at least ten of the developer’s standards or if ten standards have not been approved, standard(s) totaling at least 100 pages and c) no standard submitted by the developer during the five (5)-year period was finally denied American National Standard status by ANSI due to a failure to adhere to the principles and procedures upon which the developer’s accreditation was based. The inability of an applicant to make use of this presumption shall in no way preclude consideration of its application based on all the relevant evidence.

Upon a final decision to grant an accredited standard’s developer’s application, the developer shall enter into a written agreement with ANSI, which shall include commitments by the developer to meet the requirements listed below. The agreement shall be for a term of no longer than two (2) years. Any additional terms included in the agreement may be modified as circumstances require with the prior approval of ANSI’s President and the developer (as long as such additional term(s) do not conflict with any of ANSI’s procedures and policies).

The developer shall:

- a) retain membership in ANSI and pay dues to ANSI in accordance with the policies established by ANSI’s Board of Directors;
- b) conduct its activities at all times in conformity with the criteria upon which it was accredited;
- c) submit to audits of its operations by ANSI to demonstrate compliance with terms of the delegation and pay the fees associated therewith (see the *ANSI Auditing Policy and Procedures* for further details on the audit requirements);
- d) provide information required by ANSI in connection with PINS or its equivalent, in a timely manner;
- e) provide information required by ANSI in connection with initiating the ANSI public comment period, in a timely manner;
- f) promptly notify ANSI each time that a standard is designated as an American National Standard without BSR review;
- g) not designate as an American National Standard any standard if it:
 - 1) is contrary to the public interest;
 - 2) contains unfair provisions;
 - 3) is unsuitable for national use;
- h) make a good faith effort to resolve conflicts;
- i) promptly notify ANSI of any suit or claim made against the developer arising from a standard designated as an American National Standard without BSR review, and provide periodic updates sufficient to apprise ANSI of

the status of any such suit or claim;

- j) indemnify ANSI in connection with any suit or claim that may be made against ANSI arising from a standard designated as an American National Standard without BSR review,⁸ which indemnity must include a commitment to advance all reasonable attorneys' fees and expenses incurred in connection with investigating or defending any such suit or claim;⁹
- k) consider an American National Standard designation for all of its standards; and
- l) immediately cease to apply the ANS designation to any standard approved after the developer has been notified by ANSI that its accreditation has been suspended and/or withdrawn.

In addition, the Agreement shall provide for termination by ANSI upon any material breach of its terms by the developer, following notice and an opportunity to cure any such breach. The developer shall have the right to appeal any such decision pursuant to ANSI's appeals procedures.

5.3 Renewals

Successive applications to renew a developer's right to designate its standards as American National Standards without BSR review may be made without limitation and shall be reviewed and decided on the same basis as an initial application, except that in connection with any renewal ANSI shall consider whether during the preceding period the developer has properly fulfilled its obligations as set forth above.

5.4 Requirements

With respect to submitting American National Standards to ANSI without BSR approval, the qualified applicant shall agree to provide to ANSI the following:

- a) title and designation of the American National Standard;
- b) indication of the type of action (that is, approval of a new American National Standard or reaffirmation, revision, or withdrawal of an existing American National Standard);
- c) declaration that applicable procedures were followed;
- d) a declaration that the standard is within the scope of the previously registered standards activity;
- e) a declaration that other national standards have been examined with regard to harmonization and duplication of content, and if duplication exists, there is compelling need for the standard;
- f) a declaration that the Audited Designator has made a good faith effort to resolve conflicts;
- g) a declaration that all appeal actions related to the approval of the proposed standard have been completed;
- h) a declaration that the criteria contained in the ANSI patent policy have been met, if applicable;
- i) approval date of the American National Standard.

5.5 Complaints

Any complaint, (whether expressed as a complaint, appeal, or request for withdrawal of the ANS designation) concerning any actions or inactions, including approval or disapproval of an American National Standard, by an Audited Designator shall be governed by the provisions of the *Operating Procedures of the ANSI Executive Standards Council*.

⁸ The sufficiency of the indemnity will be evaluated on a case-by-case basis in light of the assets of the applicant. ANSI reserves the right to deny approval to any applicant should ANSI determine an offer of indemnity to be insufficient.

⁹ It is understood that, absent a conflict of interest, the developer may designate its own attorneys as the attorneys for ANSI as well.

Annex A: Definitions

- **ANSI Accreditation:** The approval by the ANSI Executive Standards Council (ExSC) of the written procedures submitted by a standards developer relative to the development and documentation of evidence of consensus in connection with standards that are expected to be approved as American National Standards. Accreditation by ANSI signifies that the procedures submitted by the standards developer satisfy the essential requirements contained herein.
- **ANSI Audited Designator:** An Audited Designator is an ANSI-Accredited Standards Developer to whom the ANSI Executive Standards Council has granted the authority to designate their standards as American National Standards without such standards being reviewed and approved by the ANSI Board of Standards Review but such developer is subjected to additional audits.
- **Continuous maintenance:** Continuous maintenance is defined as the maintenance of a standard by consideration of recommended changes to any part of it according to a documented schedule for consideration and action by the consensus body.
- **Consensus:** Consensus means substantial agreement has been reached by directly and materially affected interests. This signifies the concurrence of more than a simple majority, but not necessarily unanimity. Consensus requires that all views and objections be considered, and that an effort be made toward their resolution.
- **Consensus body:** The group that approves the content of a standard and whose vote demonstrates evidence of consensus.
- **Periodic maintenance:** Periodic maintenance is defined as the maintenance of a standard by review of the entire document and action to revise or reaffirm it on a schedule not to exceed five years from the date of its approval as an American National Standard.
- **Proxy:** A written and signed document by which a voting member of a consensus body authorizes another person to vote in the member's stead, if allowed by the developer's procedures.
- **Resolved:** A negative vote cast by a member of the consensus body or a comment submitted as a result of public review where the negative voter agrees to change his/her vote or the negative commenter accepts the proposed resolution of his/her comment.
- **Substantive Change:** A substantive change in a proposed American National Standard is one that directly and materially affects the use of the standard. Examples of substantive changes are below:
 - "shall" to "should" or "should" to "shall";
 - addition, deletion or revision of requirements, regardless of the number of changes;
 - addition of mandatory compliance with referenced standards.
- **Unresolved:** Either (a) a negative vote submitted by a consensus body member or (b) written comments, submitted by a person during public review expressing disagreement with some or all of the proposed standard, that have not been satisfied and/or withdrawn after having been addressed according to the developer's approved procedures.

Annex B: Draft American National Standards for trial use

Draft standards intended for subsequent submittal to ANSI for approval as American National Standards may be published by accredited standards developers for trial use and comment in trade or technical journals, or as separate publications for a period of up to three years. The availability of such draft standards shall be registered with ANSI and announced in ANSI's *Standards Action*, other appropriate media and, if practical, may be listed in ANSI's catalog.

ANSI-Accredited Standards Developers that intend to utilize draft standards for trial use are required to establish procedures for use in connection with their promulgation. Such procedures shall specify how and by whom the decision to promulgate a draft standard for trial use shall be made. Such procedures shall afford materially affected interests the opportunity to challenge the decision to register a draft standard for trial use with ANSI. A copy of such procedures shall be received by ANSI, reviewed and approved by the Executive Standards Council (ExSC) or its designee, and placed on file prior to the submission and announcement of any draft standards for trial use. Draft standards for trial use shall not be issued to address a need for an emergency standard. In addition, draft standards for trial use must be in compliance with the ANSI Patent Policy.

Materially affected interests wishing to initiate a challenge at ANSI to a decision by an ANSI-Accredited Standards Developer to register with ANSI a draft standard for trial use shall first exhaust all methods of challenge at the ANSI-Accredited Standards Developer's level prior to submitting an appeal to the ANSI ExSC. The only basis on which such an appeal shall be filed is the alleged failure of the ANSI-Accredited Standards Developer to follow either its own procedures or any other relevant ANSI requirements. The burden of proof shall be on the appellant. An announcement regarding the appeal will appear in *Standards Action*.

The following statement, or equivalent, shall be included on the front cover of the draft standard for trial use:

"Publication of this draft standard for trial use and comment has been approved by (insert name of accredited standards developer). Distribution of this draft standard for comment shall not continue beyond () months from the date of publication. It is expected that following this () month period, this draft standard, revised as necessary, will be submitted to the American National Standards Institute for approval as an American National Standard. A public review in accordance with established ANSI procedures is required at the end of the trial use period and before a draft standard for trial use may be submitted to ANSI for approval as an American National Standard. This draft standard is not an American National Standard. Suggestions for revision should be directed to"

Use of the ANSI logo or trademark is prohibited on any document that has not been approved as an American National Standard including a draft standard for trial use. If an ANSI-Accredited developer complies with these procedures in connection with a draft standard for trial use, it may be referred to as a *Draft American National Standard for Trial Use*. ANSI reserves the right to deny announcement of the availability of a draft standard for trial use that is intended to be submitted for approval as an American National Standard for legal reasons upon advice of its counsel.

Annex C: Procedures for the Development of a Provisional American National Standard (ANS) or a Provisional Amendment to an ANS

C.1 Procedures for the Development of a Provisional American National Standard (ANS) or a Provisional Amendment to an ANS

When an alternative process is not otherwise reflected in an ANSI-Accredited Standards Developer's (ASD's) accredited procedures, these procedures set forth the requirements for the issuance of a Provisional ANS or a Provisional Amendment to an existing ANS and may be used when all of the following circumstances apply:

- When implementation of the Provisional ANS or Provisional Amendment may result in an improvement to the safeguarding of life, and there is a well-established need for the prompt dissemination of information that addresses an emergency situation or other special circumstance;
- When the use of the accredited procedures of the ASD would cause an undue delay in the issuance of a related standard; and
- When an ASD supports the development of a Provisional ANS or a Provisional Amendment with the intention of initiating the processing as an ANS, of the Provisional ANS or the Provisional Amendment to an ANS, within 45 days of its approval date. Processing of the ANS shall be in accordance with the ASD's accredited procedures, including ANSI public review in *Standards Action* and consensus body ballot.

C.1.1 Public notice

An announcement identifying the standard and describing the circumstances that warrant the issuance of a Provisional ANS or Provisional Amendment shall be provided to ANSI in a timely manner for publication in ANSI's *Standards Action* along with relevant developer contact information. The requirements in clause 2.4 *Notification of standards development and coordination* shall not apply with regard to a Provisional ANS or Provisional Amendment that is promulgated in accordance with these procedures.

C.1.2 Minimum consensus body ballot period

A developer using these procedures may utilize the minimum ballot period established by their accredited procedures for an ANS or the consensus body may establish a ballot period that is not less than two weeks.

C.1.3 Approval of a Provisional ANS or a Provisional Amendment to an ANS

Approval of a Provisional ANS or a Provisional Amendment to an ANS requires approval by the consensus body of at least two-thirds of those voting, excluding abstentions.

C.1.4 Comment resolution

All comments accompanying the ballot shall be circulated to the consensus body in order to afford all members an opportunity to respond, reaffirm, or change their vote. For recirculation of comments, a minimum period of not less than one week is required. An attempt to resolve the comments received relative to the Provisional ANS or Provisional Amendment is not required.

C.1.5 Right to appeal

The right to appeal shall not be required in connection with the issuance of a Provisional ANS or Provisional Amendment. After the standard or revision has been issued, if a directly and materially affected party believes that the Provisional ANS or Provisional Amendment should be withdrawn, then the *Withdrawal for cause* procedures detailed in the *ANSI Essential Requirements: Due process requirements for American National Standards* shall apply.

C.1.6 Approval notification to ANSI

Notice of the approval of a Provisional ANS or Provisional Amendment by an ASD shall be submitted to ANSI within 5 days of the approval of the document. The notice shall include the designation and title of the new or affected document the approval date and a certification that the developer has followed these procedures. An informational announcement shall be published in *Standards Action*.

C.1.7 Processing the Provisional ANS as an American National Standard

The ASD shall initiate the processing, as an ANS, of the Provisional ANS, or the revision to an amended ANS, within 45 days of its approval date. This processing shall be in accordance with the ASD's accredited procedures and shall include ANSI public review in *Standards Action* and consensus body ballot.

C.1.8 Withdrawal

A Provisional ANS or Provisional Amendment shall exist for no longer than two years from the date on which it is approved by the ASD. If consensus is achieved and the affected standard (either the Provisional ANS or the ANS as modified by the Provisional Amendment is published as an ANS, the Provisional ANS or Provisional Amendment is superseded and shall be withdrawn. If consensus is not achieved, the Provisional ANS or Provisional Amendment shall be withdrawn at that time, but no later than two years from the date on which it was approved. A notice of the withdrawal shall be published in ANSI's *Standards Action*.

C.1.9 Identification of a Provisional ANS or Provisional Amendment

A standard or an amendment to a standard promulgated in accordance with these procedures shall be referred to as a Provisional American National Standard or Provisional Amendment, respectively, and identified clearly as such on the cover or title page. In addition, a standard processed as a Provisional American National Standard, shall be identified by a unique alphanumeric designation in accordance with the following guidelines:

ANSI/ABCD 123 (PS), where ABCD reflects the developer's acronym.

And an American National Standard with a provisional amendment shall be identified as follows:

ANSI/ABCD 123 (PA)

The following or similar text shall be included in the foreword of a Provisional Standard or adjacent to a Provisional Amendment when included in the text of an ANS:

"This document or some of the information contained in this document has been processed in accordance with ANSI's requirements for a Provisional American National Standard or Provisional Amendment to an ANS. The same or similar document or amendment (as applicable) will undergo the standards development process set forth in the ASD's accredited procedures. This Provisional ANS or pertinent Provisional Amendment(s) shall be withdrawn on or before the two year anniversary date of its approval as such."

The ANSI approval logo and the words "an American National Standard" shall not be used to identify an entire standard that has not received ANSI approval or been approved by an accredited standards developer who has been granted authority to designate its standards as American National Standards.

C.1.10 Audit of Use of Provisional ANSI Process

Evidence of compliance with these procedures shall be retained. This documentation shall be examined during the next scheduled audit of the developer.