

ANSI PINS Process: An Informative Summary (2022)

PINS submittal: <https://www.ansi.org/portal/psawebforms/>

Note: This document is for informational use only and does not supersede the requirements set-forth in the ANSI Essential Requirements: Due process requirements for American National Standards (www.ansi.org/essentialrequirements).

I. Excerpts from the ANSI Essential Requirements that are relevant to the PINS

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 party (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.

1.4 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.

2.0 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.

2.4 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 Standards¹. A “good faith” effort shall require substantial, thorough and

¹ Note that clause 4.2.1.3.4 *Withdrawal for Cause* provides a mechanism by which a directly and materially interested party who has been or will be adversely affected by an ANS, may at any time request the withdrawal of an existing ANS.

comprehensive efforts to harmonize a candidate ANS and existing ANSs. Such efforts shall include, at minimum, compliance with all relevant sections of these procedures². Developers shall retain evidence of such efforts in order to demonstrate compliance with this requirement to the satisfaction of the appropriate ANSI body. (Emphasis added)

2.5 Notification of standards development and coordination

Timely and adequate notice of standards development activity, including formation of a consensus body or consensus body meeting, shall be announced in media suitable to demonstrate that a meaningful opportunity for participation by all directly and materially interested parties in a fair and equitable manner was provided.

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, IEC or ISO/IEC JTC-1 standard.

2.5.1 Project Initiation Notification System (PINS)

At the initiation of a project to develop or revise an American National Standard³, notification shall be transmitted to ANSI using the Project Initiation Notification System (PINS) form, or its equivalent, for announcement in *Standards Action*. Comments received in connection with a PINS announcement shall be handled in accordance with these procedures.

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, IEC 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; and
- (c) the interest categories that will or are expected to comprise the consensus body.

If the response to sub-section (b) changes substantively as the standard is developed, a revised PINS shall be submitted and published.

If a developer receives a written request for additional information or for the opportunity to discuss the proposal from a directly and materially interested outside party or current consensus body member, during the 30-day PINS comment period, the ASD shall respond in writing within 30 days of the comment deadline.

2.5.1.1 PINS Exceptions

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. A PINS form may be submitted, but is not required, at the initiation of a project to reaffirm or withdraw an American National Standard.

² See, for example, clauses 2.1, 2.4, 2.5, 2.6 and 4.3.

³ Including the national adoption of ISO and IEC standards as American National Standards, but excluding actions set-forth in 2.5.1.1.

2.5.1.2 Assertions of conflict or duplication

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 (or concurrently) 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 proposed 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.

2.5.1.3 PINS Deliberation Report

The outcome of a PINS deliberation shall be conveyed in writing (the “Deliberation Report”) within 30 days after the conclusion of the deliberation by the developer to the commenter and to ANSI. Upon submission of the Deliberation Report, the developer may continue with the submission of the proposed standard for public review. If additional deliberations take place, they should not delay the submission of the proposed standard for public review, and an updated Deliberation Report shall be conveyed within 30 days after each deliberation. Any actions agreed upon from the deliberations shall be carried out in a reasonably timely manner, but normally should not exceed 90 days following the deliberation. Subsequently, the developer shall include all of the Deliberation Report(s) with the BSR-9 submittal to the ANSI Board of Standards Review (BSR) for consideration should the developer ultimately submit the subject standard to ANSI for approval. Stakeholders who were involved in the PINS deliberation process may also file separate Deliberation Report(s) with ANSI and the developer within 30 days after conclusion of any deliberation for consideration by the BSR, if the standard is submitted to ANSI for approval.

In the case of ANSI Audited Designators, the Audited Designator shall provide a Deliberation Report to the commenter and to ANSI within 30 days after each deliberation. The Audited Designator shall review the results of the deliberation prior to designating a standard as an ANS.

While the outcome is not binding, unless binding provisions are agreed to by the developer, participants are encouraged to develop a consensus on whether and how the standards development project should proceed. *See* also 4.3.

2.5.2 Public Review⁴

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, IEC 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:

⁴ Although a 60-day public comment period is not required in all instances, a number of provisions in the *ANSI Essential Requirements*, when read in combination, satisfy the WTO’s 60-day rule. Before adopting a standard, ANSI-Accredited Standards Developers shall allow a period of at least 60 days in total for submission of comments on the draft standard if requested by an interested party within the territory of a Member of the WTO. Exceptions outlined in the rule are permitted due to issues of safety, health or environment. (See *WTO Agreement on Technical Barriers to Trade (TBT)*, Annex 3 *Code of Good Practice for the Preparation, Adoption and Application of Standards (CGP) Substantive Provision L.*)

- 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*.

II. ANSI ExSC Discussions

The ANSI Executive Standards Council (ExSC) has not set-forth any specific requirements for “deliberations” other than section 2.5.

The ExSC did note, however, the following recently:

1. Is a PINS deliberation required if the commenter agrees that one is not specifically required or otherwise notes that his/her comments have been addressed by the developer?

RESPONSE: No

2. Can a “deliberation” take place via correspondence?

RESPONSE: Yes

3. Does a “deliberation of stakeholders” require more than communication between the commenter and the standards developer?

RESPONSE: No. The deliberation may involve the developer and the commenter only; however, both should be open to engaging additional stakeholders, if appropriate.

4. Can the deliberation take place after the 90 day period?

RESPONSE: Yes

In addition, the ANSI ExSC was asked to interpret section 2.6 of the *ANSI Essential Requirements* as it relates to the PINS deliberation requirement. Specifically, if a PINS deliberation is held, is there any other activity that must take place before a public review of the draft document?

The ExSC confirmed the following:

In response to a request, the ANSI Executive Standards Council (ExSC) Executive Committee was asked to review the existing language contained in clause 2.5 Notification of standards development and coordination of the ANSI Essential Requirements to determine whether the procedures require anything more than a mandatory deliberation of stakeholders in response to a claim of conflict or duplication prior to the announcement of a draft standard for public

review. The ExSC agreed that the current language does not require anything more in order for an involved standards developer to submit a draft standard for public review. This does not in any way change the developer's responsibility to comply with clause 1.4 Coordination and harmonization, which reads as follows: "Good faith efforts shall be made to resolve potential conflicts between and among existing American National Standards and candidate American National Standards." In addition, developers are obligated to address all claims of conflict and duplication that may result from public review as well as appeals.

III. Discussion (Not binding on ANS Program Oversight Committees)

PINS Deliberations to date have typically taken the form of one or more teleconferences, virtual meeting(s) or in-person meeting(s). The potential outcomes are not limited by the *ANSI Essential Requirements*.

Guidance regarding "Good Faith Efforts"

The following are examples of actions that could be considered consistent with "Good Faith Efforts":

- a preliminary comprehensive review of existing projects to ensure that a contemplated project does not conflict with or duplicate a previously announced or approved standard;
- outreach to other ASDs involved in similar areas to ensure that a standard does not already exist or is under development;
- consideration of a joint project, if another standard with a similar subject matter exists or is under development; and
- thorough and thoughtful consideration of a claim of conflict and timely scheduling and follow-through on agreed upon actions.

Guidance regarding duplication

Thorough and thoughtful consideration should be given to a claim of duplication of content and, if it is agreed that such duplication exists, consideration should be given to whether such duplication is justified by a compelling need.

Guidance regarding the possible outcomes of a PINS Deliberation

The results of such PINS deliberations vary and may include the following:

- an agreement to undertake a joint standard;
- the decision by one party to abandon a project;
- agreement to continue to dialog through the standards development process, perhaps through appointment of members to both consensus bodies, establishment of liaisons;
- involved parties agree to disagree; or
- other.

Such deliberations *must be memorialized for the record* as required in the *ANSI Essential Requirements* for future review by the ANSI Board of Standards Review (BSR) or by the ANSI Audited Designator. A sample PINS Deliberation Report is included as Annex A. Use of this report is not required; it is simply one approach to documenting a PINS Deliberation.

Note that the ANSI BSR will only be involved in the review of any future standard submittal if the submitting standards developer is not an ANSI Audited Designator. If the developer is an ANSI Audited Designator, then its standards are not submitted to the ANSI BSR for approval

as ANS are instead approved by the ANSI Audited Designator upon conclusion of its ANSI-Accredited procedures.

To this point, the ANSI Audited Designator provisions contained in the *ANSI Essential Requirements* state the following in relevant part:

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.

It is true that a PINS deliberation report is not binding on involved parties, i.e., even if a deliberation does not result in a clear resolution, a developer may proceed to implement its ANSI-Accredited Procedures in support of a candidate standard for approval as an ANS. *Claims of conflict or duplication may again be lodged at the public review phase, or in connection with a consensus body vote, at which time they must be addressed, responded to and if unresolved, may form the basis of an appeal at the standards developer level.*

The ultimate determination within ANSI of whether a “good faith” effort has been made will rest with:

- *the ANSI BSR for ANSI-Accredited Standards Developers that do not hold the status of ANSI Audited Designator:* upon conclusion of an appeal at the standards developer level, the ANSI Board of Standards Review will adjudicate related procedural appeals as it is the committee that is charged with determining whether, based on the evidence of consensus provided by the sponsoring standards developer, ANSI’s requirements have been met; or
- *the ANSI ExSC for ANSI Audited Designators:* upon conclusion of an appeal at the standards developer level, a complaint could be filed with the ANSI Executive Standards Council (ExSC) in accordance with its procedures.

Please refer to clause 2.4.2 *Coordination/Harmonization* (see above) of the *ANSI Essential Requirements* with respect to a “good faith” effort.

As to claims of “duplication”, the applicable criterion for standards submitted to the ANSI BSR is delineated in clause 4.2.1.1 *Criteria for approval of an American National Standard:*

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

For ANSI Audited Designators (see clause 5.2 *Criteria for approval of ANSI Audited Designator Status*), the developer shall:

h) make a good faith effort to resolve conflicts;

and clause 5.4 *Requirements* states the following:

- 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;*

Annex A – Sample, Use of this Form is Not Required

ANSI PINS Deliberation Report

**Note: to be submitted to ANSI in accordance with the current edition of the ANSI Essential Requirements:
Due process requirements for American National Standards**

- 1. Date of Deliberation:**
- 2. Location of Deliberation:**
- 3. Deliberation Chair/Leader:**
- 4. Deliberation Attendees (Name/affiliation):**
- 5. Decision-making Panel members (if by panel):**
- 6. Standard at issue (Designation and Title):**
- 7. ANSI-Accredited Standards Developer (Sponsor of standard):**
- 8. Scope of standard:**
- 9. Summary of comments prompting a PINS Deliberation (or attach comments):**
- 10. Summary of good faith efforts to date to resolve issue:**
- 11. Do the parties agree that there is conflict or duplication? If no, summarize position of each side:**
- 12. Key Discussion Points:**
- 13. Outcome of Deliberation/Next Steps and Agreed Upon Timeline:**
- 14. Contact information for submitter(s):**