



ANSI Response to Request for Comments on Notice of Proposed Rulemaking, Incorporation by Reference

1 CFR Part 51 [OFR-13-0001]

Office of the Federal Register

Thank you for the opportunity to comment on the Partial Grant of Petition and Notice of Proposed Rulemaking (Notice) posted by the Office of the Federal Register (OFR) in response to a petition which sought the “free” availability of material incorporated by reference (IBR) in the Code of Federal Regulations. The American National Standards Institute (ANSI) opposed that petition and supports the OFR’s discussion of comments posted on October 2, 2013. ANSI is appreciative of the detailed analysis conducted by OFR in preparing the October 2 Notice, in particular the OFR’s comprehensive responses to the points that were raised by all parties in response to the original petition.

A key point raised by the OFR – and also echoed in ANSI’s own response to the original request for comments in June 2012 – is that there is not “one solution to the access issue.” ANSI agrees with the OFR’s decision to “leave the burden on the agencies and their subject matter experts to work with the [standards developing organizations] SDOs to provide access to the standards these subject matter experts believe need to be IBR-ed.” OFR’s suggested “requirement that agencies provide an explanation in the preambles of both their proposed and final rules that discusses how the IBR materials were made reasonably available” is appropriate. As the OFR notes, this approach provides the agencies with the necessary “flexibility to come up with the best solution for a particular situation.”

ANSI thanks the OFR for its thoughtful consideration of the Institute’s comments¹ on NARA 12-0002 in June 2012. As one of the biggest users of standards, the U.S. government’s participation in and support of standards development activities are of the utmost importance. The standardization community highly values the expert input that government employees provide and the reliance that agencies demonstrate by adopting and relying on voluntary consensus standards and compliance programs. ANSI finds the language in the OFR’s discussion of comments to be supportive of this public-private partnership.

[submitted 12/30/13]

¹ http://www.ansi.org/news_publications/other_documents/other_doc.aspx?menuid=7#Draft