

April 1998
Edition

each objector shall be advised in writing (including electronic communications) of the disposition of the objection and the reasons therefor. In addition, each objector shall be informed that an appeals process exists within procedures used by the standards developer.

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 at the next review.

Unresolved objections and any substantive change (see 1.2.9) made in a proposed American National Standard shall be reported to the consensus-developing group or canvass list in order to afford all members or canvassers an opportunity to respond, reaffirm, or change their vote.

1.2.8 International standards

Developers of American National Standards shall take international standards into consideration and shall, if appropriate, base their standards on international standards.

U.S.TAGs exist for most standards projects for which the United States has evidenced substantial interest. These groups may be contacted for information and advice through their administrators, who are on record at ANSI.

The reasons for not basing an American National Standard on an international standard include, but are not limited to, the following:

- a) national security requirements;
- b) the prevention of deceptive practices;
- c) the protection of human health or safety, animal or plant life or health, or the environment;
- d) fundamental climatic or other geographic factors;
- e) fundamental technological problems.

1.2.9 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:

- a) "shall" to "should" or "should" to "shall";
- b) addition, deletion or revision of requirements, regardless of the number of changes;
- c) addition of mandatory compliance with referenced standards.

1.2.10 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. Generally, it is not acceptable to include proper names or trademarks of specific companies or organizations in the text of a standard. Where a sole source exists for essential equipment or materials, 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 or proper name.

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

There is no objection in principle to drafting a proposed American National Standard in terms that include the use of a patented item, if it is considered that technical reasons justify this approach.

If the Institute receives a notice that a proposed American National Standard may require the use of a patented invention, the procedures in 1.2.11.1 through 1.2.11.4 shall be followed.

1.2.11.1 Statement from patent holder

Prior to approval of such a proposed American National Standard, the Institute shall receive from the identified

party or patent holder (in a form approved by the Institute) either: assurance in the form of a general disclaimer to the effect that such party does not hold and does not currently intend holding any invention the use of which would be required for compliance with the proposed American National Standard or assurance that:

- a) a license will be made available without compensation to the applicants desiring to utilize the license for the purpose of implementing the standard; or
- b) a license will be made available to applicants under reasonable terms and conditions that are demonstrably free of any unfair discrimination.

1.2.11.2 Record of statement

A record of the patent holder's statement shall be placed and retained in the files of the Institute.

1.2.11.3 Notice

When the Institute receives from a patent holder the assurance set forth in 1.2.11.1 a) or b), the standard shall include a note 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 this claim or of any patent rights in connection therewith. The patent holder has, however, 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. Details may be obtained from the standards developer.

1.2.11.4 Responsibility for identifying patents

The Institute shall not be responsible for identifying all 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 its attention.

1.2.12 Consideration of standards proposals

Prompt consideration shall be given to proposals made for developing new standards, or revising or withdrawing existing American National Standards.

1.2.13 Records

Records shall be prepared and maintained to provide evidence of compliance with these procedures. Records concerning new, revised, or reaffirmed American National Standards shall be retained for one complete standards cycle, or until the standard is revised. Records concerning withdrawn standards shall be retained for at least five years from the date of withdrawal.

1.3 Criteria for approval and withdrawal of American National Standards

A standard developed by an accredited standards developer may be approved as an American National Standard in accordance with either 1.3.1 (Approval by the Board of Standards Review), or 1.3.2 (Approval without BSR review). In either case, the due process and consensus criteria outlined in clause 1 of these procedures 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.

"Consensus" means substantial agreement has been reached by directly and materially affected interest categories. 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.

1.3.1 Approval by the Board of Standards Review

Approval and withdrawal of an American National Standard by the ANSI Board of Standards Review (BSR) is based on the evidence submitted that the requirements set forth below have been met. The BSR also acts on the revision and reaffirmation of an existing American National Standard.

MARCH 1997
Edition

each objector shall be advised of the disposition of the objection and the reasons therefor. In addition, each objector shall be informed that an appeals process exists within procedures used by the standards developer.

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 at the next review.

Unresolved objections and any substantive change (see 1.2.9) made in a proposed American National Standard shall be reported to the consensus-developing group or canvass list in order to afford all members or canvasees an opportunity to respond, reaffirm, or change their vote.

1.2.8 International standards

Developers of American National Standards shall take international standards into consideration and shall, if appropriate, base their standards on international standards.

USA Technical Advisory Groups (USA TAGs) exist for most standards projects for which the United States has evidenced substantial interest. These groups may be contacted for information and advice through their administrators, who are on record at ANSI.

The reasons for not basing an American National Standard on an international standard include, but are not limited to, the following:

- a) national security requirements;
- b) the prevention of deceptive practices;
- c) the protection of human health or safety, animal or plant life or health, or the environment;
- d) fundamental climatic or other geographic factors;
- e) fundamental technological problems.

1.2.9 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:

- a) "shall" to "should" or "should" to "shall";
- b) addition, deletion or revision of requirements, regardless of the number of changes;
- c) addition of mandatory compliance with referenced standards.

1.2.10 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. Generally, it is not acceptable to include proper names or trademarks of specific companies or organizations in the text of a standard. Where a sole source exists for essential equipment or materials, 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 standard 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 or proper name.

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

There is no objection in principle to drafting a proposed American National Standard in terms that include the use of a patented item, if it is considered that technical reasons justify this approach.

If the Institute receives a notice that a proposed American National Standard may require the use of a patented invention, the procedures in 1.2.11.1 through 1.2.11.4 shall be followed.

1.2.11.1 Statement from patent holder

Prior to approval of such a proposed American National Standard, the Institute shall receive from the identified

march 1997
edition

party or patent holder (in a form approved by the Institute) either: assurance in the form of a general disclaimer to the effect that such party does not hold and does not currently intend holding any invention the use of which would be required for compliance with the proposed American National Standard or assurance that:

- a) a license will be made available without compensation to the applicants desiring to utilize the license for the purpose of implementing the standard; or
- b) a license will be made available to applicants under reasonable terms and conditions that are demonstrably free of any unfair discrimination.

1.2.11.2 Record of statement

A record of the patent holder's statement shall be placed and retained in the files of the Institute.

1.2.11.3 Notice

When the Institute receives from a patent holder the assurance set forth in 1.2.11.1 a) or b), the standard shall include a note 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 this claim or of any patent rights in connection therewith. The patent holder has, however, 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. Details may be obtained from the standards developer.

1.2.11.4 Responsibility for identifying patents

The Institute shall not be responsible for identifying all 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 its attention.

1.2.12 Consideration of standards proposals

Prompt consideration shall be given to proposals made for developing new standards, or revising or withdrawing existing American National Standards.

1.2.13 Records

Records shall be prepared and maintained to provide evidence of compliance with these procedures. Records concerning new, revised, or reaffirmed American National Standards shall be retained for one complete standards cycle, or until the standard is revised. Records concerning withdrawn standards shall be retained for at least five years from the date of withdrawal.

1.3 Criteria for approval and withdrawal of American National Standards

A standard developed by an accredited standards developer may be approved as an American National Standard in accordance with either 1.3.1 (Approval by the Board of Standards Review), or 1.3.2 (Approval without BSR review). In either case, the due process and consensus criteria outlined in clause 1 of these procedures 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.

"Consensus" means substantial agreement has been reached by directly and materially affected interest categories. 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.

1.3.1 Approval by the Board of Standards Review

Approval and withdrawal of an American National Standard by the ANSI Board of Standards Review (BSR) requires verification that the requirements set forth below have been met. The BSR also acts on the revision, reaffirmation or withdrawal of an existing American National Standard.

1.2.8 International standards

Developers of American National Standards shall take international standards into consideration and shall, if appropriate, base their standards on international standards.

USA Technical Advisory Groups (USA TAGs) exist for most standards projects for which the United States has evidenced substantial interest. These groups may be contacted for information and advice through their administrators, who are on record at ANSI.

The reasons for not basing an American National Standard on an international standard include, but are not limited to, the following:

- a) national security requirements;
- b) the prevention of deceptive practices;
- c) the protection of human health or safety, animal or plant life or health, or the environment;
- d) fundamental climatic or other geographic factors;
- e) fundamental technological problems.

1.2.9 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:

- a) "shall" to "should" or "should" to "shall";
- b) addition, deletion or revision of requirements, regardless of the number of changes;
- c) addition of mandatory compliance with referenced standards.

1.2.10 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. This is not interpreted to exclude provisions concerning the determination of conformity with a standard when based on engineering and technical considerations.

1.2.11 ANSI patent policy

Inclusion of patents in American National Standards. There is no objection in principle

to drafting a proposed American National Standard in terms that include the use of a patented item, if it is considered that technical reasons justify this approach.

If the Institute receives a notice that a proposed American National Standard may require the use of a patented invention, the procedures in 1.2.11.1 through 1.2.11.4 shall be followed.

1.2.11.1 Statement from patent holder

Prior to approval of such a proposed American National Standard, the Institute shall receive from the patent holder (in a form approved by the Institute) either: assurance in the form of a general disclaimer to the effect that the patentee does not hold and does not anticipate holding any invention the use of which would be required for compliance with the proposed American National Standard or assurance that:

- a) a license will be made available without compensation to the applicants desiring to utilize the license for the purpose of implementing the standard; or
- b) a license will be made available to applicants under reasonable terms and conditions that are demonstrably free of any unfair discrimination.

The terms and conditions of any license shall be submitted to ANSI for review by its counsel, together with a statement of the number of independent licensees, if any, which have accepted or indicated their acceptance of terms and conditions of the license.

1.2.11.2 Record of statement

A record of the patent holder's statement (and a statement of the basis for considering such terms and conditions free of any unfair discrimination) shall be placed and retained in the files of the Institute.

1.2.11.3 Notice

When the Institute receives from a patent holder the assurance set forth in 1.2.11.1 a) or b), the standard shall include a note 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.

MARCH 1995 Edition

By publication of this standard, no position is taken with respect to the validity of this claim or of any patent rights in connection therewith. The patent holder has, however, 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. Details may be obtained from the publisher.

1.2.11.4 Responsibility for identifying patents

The Institute shall not be responsible for identifying all 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 its attention.

1.2.12 Consideration of standards proposals

Prompt consideration shall be given to proposals made for developing new standards, or revising or withdrawing existing American National Standards.

1.2.13 Records

Records shall be prepared and maintained to provide evidence of compliance with these procedures. Records shall be retained for a period of time after the adoption, reaffirmation, or withdrawal of an American National Standard as specified by the standards developer.

1.3 Criteria for approval and withdrawal of American National Standards

A standard developed by an accredited standards developer may be approved as an American National Standard in accordance with either 1.3.1 (Approval by the Board of Standards Review), or 1.3.2 (Approval without BSR review). In either case, the due process and consensus criteria outlined in clause 1 of these procedures 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.

"Consensus" means substantial agreement has been reached by directly and materially affected interest categories. 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.

1.3.1 Approval by the Board of Standards Review

Approval and withdrawal of an American National Standard by the ANSI Board of Standards Review (BSR) requires verification that the requirements set forth below have been met. The BSR also acts on the revision, reaffirmation or withdrawal of an existing American National Standard.

1.3.1.1 Criteria for approval

With respect to any proposal to approve, revise, or reaffirm an American National Standard, 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 significant conflict with another American National Standard was resolved;
- e) other known national standards were examined with regard to harmonization and duplication of content;
- f) the proposed American National Standard was provided to the administrator(s) of the appropriate USA TAG (see 1.2.8);
- g) ANSI's patent policy is met (see 1.2.11), if applicable;
- h) ANSI's policy on commercial terms and conditions is met (see 1.2.10), if applicable.

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;

By publication of this standard, no position is taken with respect to the validity of this claim or of any patent rights in connection therewith. The patent holder has, however, 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. Details may be obtained from the publisher.

1.2.11.4 Responsibility for identifying patents

The Institute shall not be responsible for identifying all 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 its attention.

1.2.12 Consideration of standards proposals

Prompt consideration shall be given to proposals made for developing new standards, or revising or withdrawing existing American National Standards.

1.2.13 Records

Records shall be prepared and maintained to provide evidence of compliance with these procedures. Records shall be retained for a period of time after the adoption, reaffirmation, or withdrawal of an American National Standard as specified by the standards developer.

1.3 Criteria for approval and withdrawal of American National Standards

A standard developed by an accredited standards developer may be approved as an American National Standard in accordance with either 1.3.1 (Approval by the Board of Standards Review), or 1.3.2 (Approval without BSR review). In either case, the due process and consensus criteria outlined in clause 1 of these procedures 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.

"Consensus" means substantial agreement has been reached by directly and materially affected interest categories. 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.

1.3.1 Approval by the Board of Standards Review

Approval and withdrawal of an American National Standard by the ANSI Board of Standards Review (BSR) requires verification that the requirements set forth below have been met. The BSR also acts on the revision, reaffirmation or withdrawal of an existing American National Standard.

1.3.1.1 Criteria for approval

With respect to any proposal to approve, revise, or reaffirm an American National Standard, 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 significant conflict with another American National Standard was resolved;
- e) other known national standards were examined with regard to harmonization and duplication of content;
- f) the proposed American National Standard was provided to the administrator(s) of the appropriate USA TAG (see 1.2.8);
- g) ANSI's patent policy is met (see 1.2.11), if applicable;
- h) ANSI's policy on commercial terms and conditions is met (see 1.2.10), if applicable.

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;

Annex H

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. This is not inter-

preted to exclude provisions concerning the determination of conformity with a standard when based on engineering and technical considerations.

Annex I

ANSI's patent policy

I.1 Inclusion of patents in American National Standards

There is no objection in principle to drafting a proposed American National Standard in terms that include the use of a patented item, if it is considered that technical reasons justify this approach.

If the Institute receives a notice that a proposed American National Standard may require the use of a patented invention, the procedures in Clause I.2 through I.5 shall be followed.

I.2 Statement from patent holder

Prior to approval of such a proposed American National Standard, the Institute shall receive from the patent holder (in a form approved by the Institute) either: assurance in the form of a general disclaimer to the effect that the patentee does not hold and does not anticipate holding any invention that its use would be required for compliance with the proposed American National Standard or assurance that:

a) A license will be made available without compensation to applicants desiring to utilize the license for the purpose of implementing the standard; or

b) A license will be made available to applicants under reasonable terms and conditions that are demonstrably free of any unfair discrimination.

The terms and conditions of any license shall be submitted to ANSI for review by its counsel, together with a statement of the number of independent licensees, if any, which have accepted or indicated their acceptance of terms and conditions of the license.

I.3 Record of statement

A record of the patent holder's statement (and a statement of the basis for considering such terms and conditions free of any unfair discrimination) shall be placed and retained in the files of the Institute.

I.4 Notice

When the Institute receives from a patent holder the assurance set forth in I.2(a) or I.2(b), the standard shall include a note 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 this claim or of any patent rights in connection therewith. The patent holder has, however, 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. Details may be obtained from the publisher.

1.5 Responsibility for Identifying patents

The Institute shall not be responsible for identifying all 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 its attention.

Annex J

Policy on reaffirmation of American National Standards

ANSI procedures for the Development and Coordination of American National Standards (hereafter, the ANSI procedures) apply to reaffirmations as they do to all approval actions related to American National Standards (ANS). The procedures used for reaffirmation of ANSs by a Standards Developing Organization (SDO) shall be implemented according to the SDO's ANSI-approved procedures. Reaffirmations shall provide an opportunity for public comment.

Reaffirmations shall be accomplished without any substantive change to the main text of the standard. (See Annex G of the ANSI procedures.) All non-substantive changes in the

main text of the standard shall be explained, or noted, in a foreword. An ANS undergoing an update of references to standards necessary to implement the American National Standard, or substantive changes, shall be processed as a revision.

The ANSI procedures require that the date of approval of an ANS shall be included in the standard, preferably on the cover. For reaffirmation, the date of ANSI reaffirmation shall be included in the standard along with the date of the original ANSI approval. The designation of ANSI approval shall clearly indicate if the approval is a reaffirmation.