

October 7, 2022 ANSI Standards Action

**Proposed Revisions to the
ANSI Essential Requirements: Due process requirements for American National Standards
(www.ansi.org/essentialrequirements)**

Public Comments due November 7, 2022

Two sets of proposed procedural revisions are available for public comment:

1. Proposed revisions to section 5.0 Normative policies and procedures for ANSI Audited Designators

The proposed revisions [shown in linked document ExSC 55 2022](#) (see strikethrough-and-underlined text) are intended to update and clarify the procedural criteria that apply to applications for (and maintenance of) the special status of Audited Designator. An Audited Designator is an ANSI-Accredited Standards Developer (ASD) to whom the ANSI Executive Standards Council (ExSC) has granted the extraordinary authority to designate their standards as American National Standards (ANS) without review and approval by the ANSI Board of Standards Review (BSR).

2. Proposed revisions to section 4.7.2 Continuous Maintenance (CM) of American National Standards (ANS)

The proposed revisions [shown in linked document ExSC 61 2022](#) (see strikethrough-and-underlined text) are intended to eliminate an existing administrative requirement applicable to ANS maintained under Continuous Maintenance (CM) to formally move from CM to Periodic Maintenance (PM) if no revisions or a reaffirmation are approved within 5 years of the last approval. Information about ANS maintained under CM is published and updated routinely as part of a standing announcement in *Standards Action* and on ANSI's website in a folder at www.ansi.org/asd.

Instructions for Submitting Public Review Comments

Public review comments are invited on the revisions shown in strikethrough-and-underline text. Public comments will be made available to the public, with attribution, in the [ANSI Online public library](#) within a reasonable time of the close of the public comment deadline. The ANSI Executive Standards Council (ExSC) will consider all timely public comments and provide a written response to commenters after the ExSC's February 2023 meeting.

When submitting public comments, please also include the pertinent line number(s) and suggest alternative text, as appropriate. Public comments are to be submitted to psa@ansi.org. The deadline for filing public comments is **November 7, 2022**.

Thank you.

**Draft Proposed Revisions to Audited Designator Procedures
Section 5.0 of the ANSI Essential Requirements**

5.0 Normative policies and procedures for ANSI Audited Designators

An ANSI Audited Designator is an ANSI-Accredited Standards Developer (ASD) who has demonstrated a “consistent and extraordinary record of successful voluntary standards development” may apply and to ANSI at any time seeking whom the ANSI Executive Standards Council (ExSC) has granted the authority to designate its standards as American National Standards (ANS), without review and approval by the ANSI Board of Standards Review (BSR). This section articulates the administrative and processing requirements associated with Audited Designators.

5.1 Application for ANSI Audited Designator Status

An ASD who in good faith believes it could meet the extraordinary requirements for Audited Designator status may apply to ANSI to be considered as an Audited Designator in accordance with this section. The applicant shall provide the information specified in a complete an application form developed by ANSI for this purpose. A and the ExSC shall make an initial determination whether the form makes a sufficiently strong showing that the Audited Designator criteria could be met. If so, the ExSC shall direct staff to issue 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, unless a complete regular audit was conducted within the conclusion of these actions, the Executive Standards Council (ExSC) last year (twelve months), in which case the ExSC may allow that audit to be considered in connection with the application process.

The ExSC shall consider the information supplied entire application using the factors set forth in Section 5.2. This review includes the completed application form, any comments received in response to the public notice of the application, any responses to those comments provided by the applicant, any comments a copy of the most recent audit report as well as any prior audits undertaken since the applicant was first accredited by ANSI (and responses received, the audit results, and the initial all audit responses,) and will make a decision concerning the disposition any other information the ExSC believes is relevant to its consideration of the application. In making a decision on such an application, the ExSC The ExSC may request any additional information reasonably necessary it believes is relevant to clarify issues raised by the application. Thereafter, ANSI shall: approve or to the application as submitted; approve criteria used to evaluate it and may ask the application contingent on receipt of certain applicant additional assurances; questions or deny for responses to the application. ExSC’s questions. Based upon this record, the ANSI ExSC will issue its decision to the applicant. 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 Used to Assess Applications for 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

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- 49 ~~evidence.~~
- 50 In determining whether an ASD has demonstrated an extraordinary record of successful American National
51 Standards development, the ExSC, shall consider, among other things, whether the applicant:
- 52 1. has held the status of ASD continuously for more than ten (10) years.
 - 53 2. sponsors a relatively large number of ANS at the time of application, e.g., 75-100.
 - 54 3. has received satisfactory audits, with no requirement issued by the ExSC to undergo a special
55 audit, in its two (2) most recent audits.
 - 56 4. has not had its accreditation suspended or withdrawn within the last 10 years.
 - 57 5. has not had ANS status withdrawn for cause from any of its documents within the last 10 years.
 - 58 6. can demonstrate that it has submitted all annual Compliance Forms by the established deadline,
59 within the last 10 years.
 - 60 7. can demonstrate an appropriate handling of procedural appeals.
 - 61 8. can demonstrate a history of giving prompt consideration to the written views and objections of all
62 participants in ANS development processes.
 - 63 9. can demonstrate that it has accurately communicated its status as an ASD to the public with respect
64 to its standards development work and accreditation status, and has complied with ANSI's
65 Guidelines on the use of ANSI marks.
 - 66 10. has faithfully adhered to all of the policies, rules, procedures and requirements applicable to
67 ASDs and the development of ANS.
 - 68 11. can demonstrate that its work and reputation is of the highest caliber, such that delegation by ANSI
69 of the right to self-designate ANSs would be in keeping with ANSI's own high standards and would
70 maintain the value and integrity of the ANSI name.

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

77

78 **5.3 Maintenance of Audited Designator Status**

79 The ~~developer~~ Audited Designator shall:

- 80 a) retain membership in ANSI and pay dues to ANSI in accordance with the policies established by ANSI's
81 Board of Directors;
- 82 a)b) conduct its activities at all times in conformity with the criteria upon which it was accredited;
- 83 b)c) submit to audits of its operations by ANSI to demonstrate compliance with terms of the delegation and
84 pay the fees associated therewith (see the *ANSI Auditing Policy and Procedures* for further details on
85 the audit requirements);
- 86 e)d) provide information required by ANSI in connection with PINS or its equivalent, in a timely manner;
- 87 d)e) provide information required by ANSI in connection with initiating the ANSI public comment period, in
88 a timely manner;
- 89 e)f) promptly notify ANSI each time that a standard is designated as an American National Standard without

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90 BSR review;

91 ~~f)g)~~ not designate as an American National Standard any standard if:

92 1) it is contrary to the public interest;

93 2) contains unfair provisions;

94 3) is unsuitable for national use; or

95 4) ANSI's requirements for designation, publication, and maintenance were violated;

96 h) make a good faith effort to resolve conflicts;

97

98 i) promptly notify ANSI of any suit or claim made against the developer arising from a standard designated
99 as an American National Standard without BSR review, and provide periodic updates sufficient to
100 apprise ANSI of the status of any such suit or claim;

101 j) indemnify ANSI in connection with any suit or claim that may be made against ANSI arising from a
102 standard designated as an American National Standard without BSR review,¹ which indemnity must
103 include a commitment to advance all reasonable attorneys' fees and expenses incurred in connection
104 with investigating or defending any such suit or claim;²

105 k) consider an American National Standard designation for all of its standards; ~~and~~

106 l) immediately cease to apply the ANS designation to any standard approved after the developer has
107 been notified by ANSI that its accreditation has been suspended and/or withdrawn;

108 m) comply with ANSI's patent policy, including the following:

109 • Any patent holder's statements or letters of assurances (LoAs) received will comply with ANSI's
110 (and the ASD's) Patent Policy (See 3.1) and will be made publicly available either on the ASD's
111 website or on ANSI's LOA repository.

112 • Any negative LoAs (i.e., those indicating the patent holder is unwilling to license essential patent
113 claims) received will be provided directly to the Secretary of the ExSC within 30 days of receipt.

114

115 n) comply with the *Commercial Terms and Conditions* provision contained in the *ANSI Essential*
116 *Requirements*. (See 3.2)

117

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

121

122 **5.3 — Renewals**

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

127

¹ 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.

² It is understood that, absent a conflict of interest, the developer may designate its own attorneys as the attorneys for ANSI as well.

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128 **5.4 Requirements for Reporting ANS Approval (BSR 109)³**

129 With respect to submitting American National Standards to ANSI without BSR approval, the qualified
130 applicant shall agree to provide to ANSI the following information using the BSR-109 form or equivalent:

- 131
132 a) title and designation of the American National Standard;
133 b) indication of the type of action (that is, approval of a new American National Standard or reaffirmation,
134 revision, or withdrawal of an existing American National Standard);
135 c) declaration that applicable procedures were followed;
136 d) a declaration that the standard is within the scope of the previously registered standards activity;
137 e) a declaration that other national standards have been examined with regard to harmonization and
138 duplication of content, and if duplication exists, there is compelling need for the standard;
139 f) a declaration that the Audited Designator has made a good faith effort to resolve conflicts;
140 g) a declaration that all appeal actions related to the approval of the proposed standard have been
141 completed;
142 h) a declaration that the criteria contained in the ANSI patent policy have been met, if applicable;
143 i) a declaration that the criteria contained in the ANSI commercial terms and conditions policy have been
144 met, if applicable;
145 i)j) approval date of the American National Standard.

146
147 **5.5 Complaints**

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

³ An ASD who received an Audited Designator status prior to the adoption of the 202x amended procedures contained in this section shall be exempted from the strict application of the criteria set forth in section 5.2. When such an ASD applies for renewal of its Audited Designator status, however, ANSI shall consider whether during the preceding period the ASD has fulfilled the “maintenance” obligations as set forth in section 5.3.

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-approved for a period of four ten years, and the ANS has not been reaffirmed, the ANS approval automatically expires on the tenth anniversary date of its approval as an ANS. 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:~~

- ~~• a standards developer that does not hold the status of Audited Designator may request an extension, but shall then maintain the ANS under periodic maintenance; or~~
- ~~• a standards developer that holds the status of Audited Designator is not required to request an extension, but shall notify ANSI in a timely manner (or within thirty days following five years after the approval date of the ANS) that the ANS will be removed from continuous maintenance and maintained under periodic maintenance.~~