

Comments on EXSC 8189 published in *Standards Action* September 30, 2011

NIST proposes the following additional language **in green** to paragraph 2.5.1.3 to maintain the provision which currently exists to challenge both duplication and conflict within American National Standards and to provide a more adequate level of due process to those engaged in PINS deliberations. NIST also proposes adding language to paragraph 2.5.1.2 to address the issue of duplication and conflict in cases of concurrently announced standards development.

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 draft standard for public review. If additional deliberations take place, they should not delay the submission of the draft 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 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. 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. **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.**

Rationale: The published proposed changes do not provide an opportunity for stakeholders who were party to a PINS deliberation to inform the BSR of their perspective of the deliberation(s). We’ve added language that provides the commenter or other stakeholders who participated in the PINS deliberations the opportunity to file their own deliberation reports for consideration in the approval process.

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 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.

Rationale: The published proposed changes in 2.5.1.2 do not address the issue of duplication which exists in the current version of the *Essential Requirements*. In addition, the proposed changes do not address the situations where there may be issues of duplication or conflict in standards development concurrently announced.

Sincerely,

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