



## FORGING AN EVEN STRONGER PUBLIC-PRIVATE PARTNERSHIP

Input from the American National Standards Institute (ANSI) and Its Federation of Members for Consideration by the National Science and Technology Council (NSTC) Committee on Technology Subcommittee on Standards

Enhancing the competitiveness of U.S. industry, protecting our environment, and assuring public health and safety are some of the key initiatives advanced by President Obama and senior administration leaders – and timely and effective standards and conformance activities are key to making these goals a reality. Market-driven and sector-specific, our national standards system is fueled by private-sector standards developers that have the technical expertise, speed, and responsiveness needed to find robust, consensus-based solutions to national priorities. By identifying and collaborating with the right private-sector partners – and working alongside ANSI in its coordination role – government agencies can work faster and smarter to meet and exceed their directives and mandates.



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As one of the biggest users of standards, the U.S. government’s participation in standards development activities is of the utmost importance. In keeping with the tenets of the *National Technology Transfer and Advancement Act of 1995* (NTTAA), 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. Through greater focus, input, and interagency coordination, the NSTC Subcommittee on Standards can build upon the success of the NTTAA, especially in areas of strategic national importance where technology and policy intersect.

Created to enhance the quality and effectiveness of agency engagement in standardization activities, the Subcommittee will work to link standards setting and implementation with effective governance and agency operations. It will also play an important role in raising the profile of standardization within government agencies, helping policymakers to better understand the foundational importance of standards and conformance to our national economy and the continued competitiveness of American industry on the global stage. When it comes to interagency coordination and policy-level decisions, the U.S. standardization community has several suggestions for how this Subcommittee can work to form an even stronger partnership with the private sector. We are your partners – yesterday, today, and tomorrow – and we welcome further dialogue on any of these points.

### STANDARDS AND REGULATION

Standards are routinely revised to reflect changes in technology, industry practices, and new hazards, but all too frequently when standards are referenced in regulation, the revised versions of the standards are never considered, resulting in many standards currently in force of law that are out of date. By working closely with the private sector to get information about new revisions, the Subcommittee will promote a process that facilitates more regular updates to those regulations and mandates that make reference to current voluntary consensus standards.

The NTTAA (Public Law 104-113) is clear on the need for government agencies to rely on private-sector standards wherever possible. But the next step has not yet been taken, and that is the creation of a real-time mechanism for the government to let the impacted community know when a standards-based solution is needed, and for standards developing organizations (SDOs) to let the government know when key standards are being revised. Until such a mechanism is in place, the public sector will not be maximizing its ability to consistently and effectively capitalize upon the strengths of the robust private sector-led standardization system.

Although the NTTAA encourages government employees to participate fully in standards development activities, questions often arise due to staff turnover and some apparently conflicting or inconsistent agency policies on membership dues, travel costs, and other aspects of standards development. An underscoring of the NTTAA language by the NSTC Subcommittee would help stakeholders to better understand the rules of engagement. Some of the most frequent questions raised include whether government employees may:

- Serve as a voting member of an SDO without such participation being interpreted as an endorsement of a particular standard or related product
- Serve in a leadership capacity as an SDO committee officer
- Expend appropriated funds to pay for membership fees in standardization organizations
- Contribute knowledge and expertise to the development of information and documents where intellectual property rights are to be held by SDOs

Continue to work in partnership with the private sector on standardization activities in accordance with the NTTAA. And where new standards are needed, ensure that agencies understand that they should first look to private sector-led activities for solutions. Furthermore, agencies should strongly consider providing support – both manpower and funding – for such activities as appropriate, especially in those areas where the standards are associated with government-supported initiatives.

Wherever possible, work to increase alignment of standardization goals within agencies, especially in cross-cutting areas. Conflicting agency objectives may lead to duplicative efforts, and can even create confusion on the international stage, where a multitude of voices from the United States can hamper effective uptake of U.S. positions in standardization and policy venues.

Embrace the “method-neutral” approach to conformance – where the marketplace and appropriate regulatory agencies determine the rigor of conformity assessment needed based on the level of risk. Standards are just good ideas without demonstrated compliance.

Work to better align public-sector and private-sector priorities so that the agency and industry experts can work together to meet the most pressing needs. Wherever these priorities are not wholly aligned, examine ways to better coordinate or share information to keep all parties informed.

Coordinate a meeting between the NSTC Subcommittee working group on IPR and the ANSI Intellectual Property Rights Policy Committee (IPRPC), a robust committee with participation from a broad range of constituent groups. Such a meeting would allow for an engaging face-to-face discussion where the IPRPC could share its white papers and discussion points on the inclusion of essential patent claims or other proprietary intellectual property in national, regional, or international standards.

Examine the need for a broader framework to address IPR issues related to other countries.

Promulgate a more comprehensive understanding of the distinctive types of IPR in the context of standards. For example, there is a key distinction between embedded IPR – such as a patented technology or process that is included within the text of a standard – and the overall copyright held on the standard itself.

Convene representatives of federal agencies for cross-functional meetings and best practices discussions. This will allow the excellent work being done by many agencies to be shared with those that have yet to become fully engaged in private-sector standards development activities.

Government should develop more effective ways of sharing information – early in the process – with the private sector about new initiatives, programs, policies, and regulations. Greater use of the recently revised *Federal Register* website and increased reliance on the NSSN Search Engine for Standards ([nssn.org](http://nssn.org)) would go a long way toward increasing transparency and encouraging greater collaboration, in line with the administration’s Open Government Initiative.

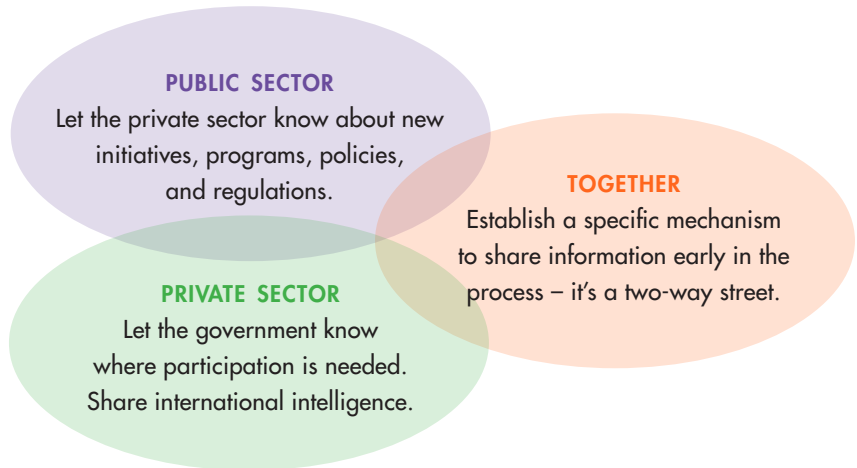
The private sector should better coordinate and share information – early in the process – with the government. Agencies cannot be expected to know that their participation is lacking in areas of standards development of which they are not aware. In ANSI’s role as U.S. member body to the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC), the Institute is in the unique position to provide information and intelligence about what our competitors and trade partners around the world are doing on the international standardization stage.

Together, the public and private sectors can share information about key standards-related topics, strategies, and policies. The public-private partnership should focus on deepening and extending this ongoing dialogue, and should not be limited to one-off events that disband once the immediate objective is accomplished.

**THREE STEPS TO BETTER COMMUNICATION FOR A MORE ROBUST PUBLIC-PRIVATE PARTNERSHIP**

Hearing the government’s priorities firsthand helps the standards community be a more effective and proactive partner.

And if the private sector does a better job of sharing information about standards development activities already underway – both here in the United States and internationally – then agencies will have a better handle on where greater participation is needed.



**CONCLUSION**

The open, market-driven, and private sector-led nature of our nation’s system is critical to achieving one of President Obama’s chief goals: the growth of U.S. leadership and innovation on the global stage. ANSI is pleased that the Charter for the Subcommittee on Standards expressly notes that the NTTAA and Office of Management and Budget (OMB) Circular A-119 set forth “the official Administration policy on the federal government’s approach to standard setting. That framework, emphasizes the Federal Government’s commitment to the use of voluntary, consensus-based standards developed by private sector organizations to carry out its policy objectives,” and that the Subcommittee will “support U.S. standards policy, as embodied in the NTTAA and OMB A-119, elaborating the benefits of this approach and informing audiences, including the international community as to how and why the U.S. approaches standard setting in a voluntary, consensus-based manner.”

Recognizing that standards and conformity assessment activities are inextricably linked to all facets of our national economy and are vital to the continued competitiveness of U.S. industry, we look forward to a close relationship and robust dialogue between members of the Subcommittee and the private-sector stakeholders from the standardization community. Together, we can forge an even stronger public-private partnership to meet the President’s goals for our nation.

## THE PUBLIC-PRIVATE PARTNERSHIP AND SOME EXAMPLES OF OUR SUCCESS

Through collaboration, the public and private sectors find real-world solutions that are efficient, effective, and scalable. From policy makers, industry, and standardization organizations, to academia, consumers, and others, when all interested and affected parties are engaged in the process, the strongest possible solutions result. We describe this collaborative effort as the **public-private partnership**, and it is key to addressing many national priorities as well as the success of our national standardization system.

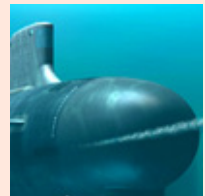
For more than ninety years, ANSI has served as coordinator of this partnership. Today, we coordinate a number of cross-sector standards coordination initiatives that address key national priorities, including homeland security, nanotechnology, biofuels, nuclear energy, chemical regulations, healthcare information technology, and identity theft protection and identity management. The mission of each of these activities is to bring all relevant stakeholders together to identify, coordinate, and harmonize the voluntary consensus standards that are relevant to each area. Many of these activities were initially formed at the behest of government agencies, and all have robust participation from both public- and private-sector experts.

The American economy has benefited greatly from our model for standards. This voluntary, open, bottom up, consensus-driven, private sector-led, and performance-based system has been absolutely critical to ensuring our success in addressing national priorities.

– Aneesh Chopra

ANSI is proud to offer the following examples of how government and industry have worked together to meet some of the most urgent national priorities:

In a major cooperative initiative, the U.S. Department of Defense, the Navy, the industrial shipbuilding community, and academia identified two key areas to improve in nuclear submarine development and construction: parts standardization and process standardization. Over the life of the Virginia class program, an investment of \$27 million in parts standardization is projected to lead to \$789 million in cost avoidance. Procurement costs have been reduced by 60 percent. The USS Virginia lead ship was launched ahead of schedule and is already showing improvement in crew readiness and cost-effective onboard parts support.



The Superior Energy Performance (SEP) Partnership is a voluntary, industry-designed certification program that provides a transparent, globally accepted system for improving energy performance at industrial plants. The program has been guided by the U.S. Council for Energy-Efficient Manufacturing, a public-private partnership that includes participation from the Department of Energy, the Environmental Protection Agency, the Department of Commerce, a number of large industrial companies, and ANSI, among many others. Set to launch in 2011, the SEP Partnership has also led to the development of a Global Superior Energy Performance Partnership, which will include participation by Canada, India, Japan, and Europe.



In 1993 the U.S. Coast Guard came to the National Fire Protection Association (NFPA) with a request to develop a consensus standard on fire protection of merchant vessels. First published in 1998, the resulting standard, NFPA 301, *Code for Safety to Life from Fire on Merchant Vessels*, has undergone consistent maintenance and is scheduled to be revised again in 2012. The Coast Guard remains an active participant in the NFPA Technical Committee responsible for the standard.



According to the Federal Aviation Administration, “the suitability and durability of materials used for parts...must...conform to approved specifications (such as industry or military specifications...)” for the design and construction of commercial aircraft. In addition, the Departments of State, Commerce, and Transportation negotiate international aviation agreements and regulations using standards.



In the *Smart Grid Interoperability Framework* issued by NIST in January 2010, a number of private sector–led interoperability standards were advanced. The following key references to the selection of these standards can be found in section 4.1 of the document on pages 45 and 46:



NIST uses the definition of voluntary consensus standards given in OMB Circular A-119, on *Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities*, where such standards are defined as developed and adopted by voluntary consensus standards bodies.

In making the selections of Standards-Setting Organizations (SSOs) listed in this section, NIST attempted to ensure that documents were consistent with the guiding principles, including that they be open and accessible. To facilitate the development of the Smart Grid and the interoperability framework, NIST is working with SSOs to find ways to make the interoperability documents more accessible so that cost and other factors that may be a barrier to some stakeholders are made less burdensome.

As the NIST Smart Grid example illustrates, numerous standards already existed to meet the interoperability, communication, and security needs of the nascent Smart Grid – it was just a matter of identifying where those touch points were and coming to consensus as an industry as to which would be adopted.

Conformity assessment was also identified as a critical element, since performance of the complete grid is reliant on the performance of each of its parts. Identifying the standards and certification parameters at the beginning of the process helps to identify potential gaps that may need to be addressed.

Launched in 2006 by the U.S. Environmental Protection Agency, WaterSense is a partnership program that promotes water efficiency and enhances the market for water-efficient products, programs, and practices. According to the WaterSense website, “licensed certifying bodies, independent of EPA and the product manufacturers, test products for both efficiency and performance, certify product conformance, authorize use of the WaterSense label, and conduct periodic market surveillance.”



All product certifying bodies must be accredited to certify products for WaterSense. EPA has approved ANSI, the American Association for Laboratory Accreditation, and the International Accreditation Service as WaterSense accreditation bodies. Independent, third-party accreditation adds value to the certification process, assuring that certification bodies demonstrate compliance with the WaterSense product certification system and are capable and competent.

The Federal Energy Regulatory Commission (FERC) relies on private sector–led voluntary consensus standards and incorporates these documents into its regulations for the interstate transmission of electricity, natural gas, and oil. By working in cooperation with the North American Energy Standards Board (NAESB), FERC has been able to reduce costs and streamline its processes. Furthermore, FERC can rely on NAESB to ensure that its standards development activities are open, consensus-based, and balanced.



In choosing to take advantage of the efficiency of the private sector–led process, FERC followed government regulations that require the use of incorporation by reference. These rules appropriately balance the interest of the standards organization and the expediency of governmental use of privately developed standards.