Minutes from Joint Interagency Committee on Standards Policy - ANSI Government Member Forum Meeting
DHS Headquarters – 1120 Vermont Ave NW
Washington, DC

March 21, 2007

Attendees:
Mary Mitchell, GSA
Roberta Breden, DHS
Peter Shebell, DHS
Bert Coursey, DHS
Joe Bhatia, ANSI
Marsha Mazz, Access Board
Suzie Burke-Bebee, HHS
Heidi Hijikata, ITA
Colin Church, CPSC
Kathleen Baden, GSA
Jenny Heaps, NARA
Nancy Allard, NARA
J. Michael Fitzmaurice, AHRQ
Beverly Hacker, TREASURY
Mary Saunders, NIST
Jane Schweiker, ANSI
Lane Lallenbeck, ANSI
John Bridges, USPS
Bridget Canada, VA
Donald Pittenger, DOL
Gordon Gillerman, NIST
Maureen Breitenberg, NIST
Trudie Williams, DoD
Mary Donaldson, NIST
Scott Cooper, ANSI
Don Purcell, The Center for Global Standards Analysis

1. Opening Remarks and Self Introductions – NIST and DHS

2. **An overview of the ANSI Standards Panel process** and specifics regarding panels on Homeland Security, Health IT, Identity Theft and Nanotechnology was presented by Mary Saunders, NIST. See presentation: Report_ANSI_Standards_Panels_3-07.pdf.

3. **New Executive Orders (EOs) Affecting Agencies** – An overview of the following new EOs was presented by Mary Mitchell, GSA (1) *Strengthening Federal Environmental, Energy, and Transportation Management* (http://www.whitehouse.gov/news/releases/2007/01/20070124-2.html) and (2*) Further*

Amendment to Executive Order 12866 on Regulatory Planning and Review (http://www.whitehouse.gov/news/releases/2007/01/20070118.html).
The first EO requires the naming of a senior level official at each agency responsible for implementing and overseeing the order's provisions. The second EO establishes the position of "Regulatory Policy Officer" among each agency's existing presidential appointees. This person will ensure that issued "guidance documents" comply with the requirements of the EO. This is part of a move towards greater government "transparency". Also part of the effort towards greater transparency is the establishment of the GSA website: http://www.reginfo.gov, a centralized "e-rulemaking" clearinghouse for regulatory information and rulemaking information. OMB has issued a new bulletin, "Final Bulletin for Agency Good Guidance Practices": http://www.whitehouse.gov/omb/memoranda/fy2007/m07-07.pdf . This bulletin addresses issuance of the creation of "guidance documents" by agencies. It follows guidance set forth in OMB Circular A-130 on information policy (http://www.whitehouse.gov/omb/circulars/a130/a130trans4.html). In the procurement area, all agency procurements over $25K will be reported in a searchable database.

Also mentioned were two Executive Orders affecting Health Care in the Federal government: EO 13335: *Incentives for the Use of Health Information Technology and Establishing the Position of the National Health Information Technology Coordinator* dated April 27, 2004 (http://www.whitehouse.gov/news/releases/2004/04/20040427-4.html) and
Executive Order: *Promoting Quality and Efficient Health Care in Federal Government Administered or Sponsored Health Care Programs*, August 22, 2006 (http://www.whitehouse.gov/news/releases/2006/08/20060822-2.html).

4. **Federal Energy Initiatives**. A general overview of ANSI and federal agency activities, particularly in alternative fuels was presented by Jane Schweiker, ANSI. There was a recommendation from the ANSI/DOE standards workshop held in January 2007 that ANSI form a Biofuels Standards Panel. There are many agencies and companies involved which requires coordination of policy and technology areas. ISO is also getting involved in Biofuel standards. See Power Point presentation: ICSP GMF Report on Biofuels March07.ppt

5. **ICSP Regulatory Agency Working Group** – Colin Church, CPSC. Pursuant to the last meeting of the ANSI Executive Standards Council, the ICSP was asked for its thoughts regarding the use of undated standards. The issue relates to standards that incorporate undated standards by reference. The ICSP noted that procurement agencies tend to use the latest version of the referenced, undated standards when conducting procurement activities and there is a general treatment of undated standards in the FAR. However, the approach used by regulatory agencies is to use the version of the referenced standard which was in effect at the time a regulation was issued. The procurement approach might have the effect of turning regulatory authority for establishing mandatory requirements over to the SDO when the SDO determines to use the current version of undated standards as references. In general, this is not acceptable to regulatory agencies

which generally use the date of the regulation to determine which version of the undated, referenced standard must be used. While some regulatory agencies will give consideration to those who use the current version of a referenced standard rather than the version in effect at the time the regulation was issued, the agencies will still determine whether or not the requirements of the regulation have been met by using the current version and may reject such usage if inappropriate.

The issue was raised as to whether or not those being regulated are aware of which version of a referenced standard is in effect when the referenced standard is not dated. It was noted that additional work may be needed to clarify just which version of a standard is applicable when it is referenced in regulation.

It was also noted that some agencies are attempting new approaches to the updating of outdated standards within their regulations, including beginning the rulemaking process when revisions to the referenced standard are underway, rather than waiting until the standard has been published. Specifically, HHS described their proposed approach to combining the updating of a standard by an SDO with the federal rulemaking review and comment process. For further information pertaining to this activity within HHS, see: Letter to Secretary Leavitt and Proposal for the Modification of the HIPPA Transaction Implementation Specifications Adoption Process. Other approaches are also being tried. The ICSP would like to discuss what options are allowed when including undated standards as references in the Federal Register with appropriate personnel from the Federal Register. The Federal Register publishes regulations of the Federal Government. There was also interest in talking to a representative from OIRA about the issue of incorporating a streamlined rulemaking process while standards are being updated by an SDO. It was also suggested that an HHS attorney speak to the group regarding their attempts to streamline updating of rules in parallel with updating of referenced standards.

Another issue discussed concerned ANSI's requirements for balance. ANSI now requires that SDOs either achieve balance or show that they made a good faith effort in this area. The ICSP felt that this requirement was reasonable. No reduction in this requirement should be allowed.

6. **Standards & US Competitiveness Policy Statement** – The ANSI Company Member Forum (CMF) is drafting a statement on benefits of stakeholder involvement in standards development activities. Comments are solicited to the draft – see power point presentation: CMF 07-002 (Draft Deliverable on US Messaging referred to IPC 2 23 07).ppt (ANSI Executive Standards Council has asked for comment on this topic.)

7. **Strategic Value of Standards Education** – Overview of the state of standards education was presented by Don Purcell. Anticipated impacts were outlined if more attention and resources are not invested in this area. (See Power Point and MS Word

documents: Purcell Power Point.ppt, Purcell Strategic Standardization Syllabus (Summer 2006).doc, Purcell 2 28 07 A New Awakening.doc)

8. **Conformity Assessment and Assistance for Agencies** – Presentation by Gordon Gillerman about conformity assessment and standards development assistance services available from NIST with an overview of support provided to DHS and EPA. (See Power Point CA Resources ICSP-ANSI GMF.ppt)

9. **Status of NTTAA report and changes for 2007**. Mary Saunders presented an overview of the rationale for the streamlining of this year's report and what OMB and House Science Committee would like retained or changed for next year. All the information requested in the past will still be required; however, the report will be more streamlined and will link to details and to agency websites which will host up-to-date information on standards activities. This is in line with the movement of the government towards greater transparency and e-gov. Further guidance will be forthcoming.

10. **New Biotech SC under ISO TC 34** - ISO TC 34 (AFNOR (France) and ABNT (Brazil) now jointly hold the secretariat for this committee) is establishing a new subcommittee and will be undertaking new work in biotechnology and methods of detection. The new subcommittee is expected to assume the responsibilities of the existing biomarker working group within the new subcommittee's expanded scope. AOCS is currently the administrator of U.S. TAG to TC 34. If you are interested in joining, contact:

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11. Meeting adjourned. Next meeting: June 14th at NIST.