

**Minutes from the ICSP Meeting**  
**9:00 am until 12:00 pm**  
**June 14, 2007**

**National Institute of Standards & Technology**  
**10<sup>th</sup> Floor Conference Room**  
**Administration Building (101)**  
**Gaithersburg, MD 20899**

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Attendees:

Belinda Collins, NIST  
Gordon Gillerman, NIST  
JoAnne Overman, NIST  
Mary Saunders, NIST  
Mary Donaldson, NIST  
Mike Moore, NIST  
Maureen Breitenberg, NIST  
Virginia Fitzner, DOL  
Don Pittenger, DOL  
Carol Moyer, NRC  
Jennifer Moffat, GSA  
Suzanne Acar, DOI  
Andy Wallo, DOE  
Suzie Burke-Bebee, HHS  
Don Marlow, HHS  
Trudie Williams, DoD  
Colin Church, CPSC  
Nancy Allard, NARA  
Tim Klein, DOT  
Mike Crowe, FCC

Guests:

Michael White, Federal Register  
Lowell Martin, CPSC  
Barbara Parisi, CPSC  
Wilson Harkins, NASA

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- 1. Opening Remarks and Self Introductions**
  - 2. Changes to the Agenda – None**

### **3. Discussion of the Use of Undated Standard References in Regulation** - *Michael White, Office of the Federal Register*

Michael White, Director of Legal Affairs & Policy, discussed the founding history of the Federal Register and its authority to ensure that federal rules meet certain standards such as the maintenance of due process and recording of public comment (as prescribed by the Administrative Procedures Act). This office oversees the publication of federal rules. The topic of incorporation of dated and undated standards by reference within a federal rule was discussed. The use in a federal rule of an undated standard (or a standard which cannot be “fixed” to a certain edition) does not meet requirements for inclusion in the Code of Federal Regulations due to problems with enforceability and resulting abdication of the government’s regulatory role. Problems caused by out-of-date standards were discussed along with potential solutions. Some regulations may reference standards that are so outdated that they are not generally available for review. In these circumstances, the Office of the Federal Register has the authority to revoke the approval of a regulation. Additionally, the use of shell standards in regulations where there are many embedded incorporations by reference have been rejected by the Office of the Federal Register in the past. For a rule to be enforceable, the standard that is incorporated has to be “generally available.” One solution for keeping regulations relatively up to date may be by publishing a minor or “technical amendment” to regulations incorporating a newer version of a standard by use of *Direct or Interim Rulemaking* as outlined in the Administrative Procedures Act. It was requested that the Office of the Federal Register provide some guidance on how to more easily handle updating of regulations with respect to incorporations by reference.

The Office of the Federal Register is open to experiments to assist agencies in updating their rules more efficiently, keeping in mind that requirements such as due process, balancing of the public interest and the interest of the government, maintenance of records of comment, and retention of the government’s regulatory power. Mr. White’s handout, [Laws and Regulations Relating to Incorporation by Reference](#) is attached.

### **4. ANSI’s Essential Requirements on Conflict and Duplication** - *Trudie Williams, DoD and Colin Church, CPSC*

A discussion of procedural revisions of ANSI essential requirements with respect to conflict ensued. The revised definition "conflict" that has been proposed for inclusion in ANSI's Essential Requirements and is currently out for comment was discussed at the ICSP meeting. While there was general agreement that there might be a potential problem with the revised wording, there was also general agreement among the ICSP that it was not a federal government problem. Conflicts of that type are resolved through the Federal Register notification process in the adoption of regulations. Therefore, the issue should more appropriately be raised and addressed by ANSI, industry, and the SDOs. The ICSP (as a group) will not send comments on the issue. However, the ICSP did agree that conflicts among standards should generally be avoided to the extent feasible. A statement to that effect will be sent by the ICSP to ANSI's National Policy Committee

(NPC). Background handout on [ANSI Essential Requirements on Conflict and Duplication](#) is attached.

**5. Guidance on Federal Conformity Assessment Activities - Practical Implications - Gordon Gillerman, NIST**

Gordon Gillerman presented a discussion of types of conformity assessment found in the marketplace with a focus on practical uses for federal agencies. His PowerPoint presentation, [Conformity Assessment - Practical Implications](#) is attached.

**6. Update on the Validation Process of e-Gov Standards - Mary Saunders, NIST**  
OMB plans to institutionalize best e-Gov practices. NIST is providing a technical review of current and best practices in the government for this effort. NIST's mid-year report, [NIST E-Gov Standards Validation Plan for FY07](#) summarizes work to date. Suzanne Acar, Department of Interior representative indicated that this work has application to her work on Information Sharing Standards as chair of the Federal Data Architectural subcommittee. There may be opportunity for the two efforts to collaborate particularly with respect to NIST hosting a central repository for information generated by these efforts.

7. Other business – Don Pittenger, DOL/OSHA requested that ICSP members review [OSHA's Personal Protective Equipment proposal](#), which was published in the Federal Register on May 17, 2007. Comments are due to OSHA by July 16th.

7. Next meeting – September 27, 2007 - Location TDB, CPSC offered to host.