

From: [Paul R. Verkuil](#)
To: [Scott Cooper](#)
Cc: [Emily Bremer](#)
Subject: Next Steps on Incorporation by Reference
Date: Monday, June 04, 2012 3:25:46 PM
Attachments: [image001.png](#)

Dear Scott:

Thank you for your continuing interest and engagement with the issues underlying Administrative Conference Recommendation 2011-5, *Incorporation by Reference*. As you know, there has been considerable interest in these issues across government, as evidenced by the recent proceedings before the Office of the Federal Register (OFR) and Office of Management in Budget (OMB), as well as Congress's continuing efforts to monitor the enforcement of Public Law 112-90, which prevents the Pipeline and Hazardous Materials Safety Administration from incorporating by reference any standard that is not available online for free to the public. We expect such interest to continue, and we are confident that Recommendation 2011-5 provides a sound foundation for efforts to improve the practice of incorporation by reference, particularly the attendant public access issues.

As a private-public partnership, the Administrative Conference has a unique role in the implementation of Recommendation 2011-5. We provide expertise and resources to the federal government, in this case by commenting in OFR and OMB's respective proceedings, and providing guidance to agency and other government officials as they navigate the complex issues raised by incorporation by reference. At the same time, we seek to provide similar services to interested parties in the private sector. Our May 1 Implementation Summit, which we co-hosted with the Chamber of Commerce, was merely our first effort to bring the public and private sectors together to find a mutually beneficial path forward in implementing the recommendation.

We propose to continue the dialog on the private sector side via a conference co-hosted by ACUS, ANSI, and Bloomberg Government. The conference's aim would be to explore potential avenues for standard development organizations to preserve existing or create new revenue streams while improving the public availability of those standards that are incorporated into law or have been proposed for such incorporation. Bloomberg Government has significant relevant experience because its business model depends on adding value to government information that is otherwise available for free. We understand that there is great variety among standard developers, in terms of their size, subject matter expertise, funding mechanisms, etc. The proposed conference would accommodate this great diversity by avoiding prescription and facilitating an open sharing of experience and ideas.

In our view, ANSI's participation is essential to the success of this proposed program. The active engagement of the standard development community has been, and will continue to be, invaluable in developing workable solutions to the challenges of incorporation by reference. Bloomberg Government has generously offered to provide the necessary space for the proposed conference. Together, Conference staff, ANSI, and Bloomberg can work together to determine the precise content and speakers for the event.

We hope that you will accept this invitation. If you need further information to evaluate the proposal, please do not hesitate to contact me or Emily Bremer, Attorney Advisor to the Conference (ebremer@acus.gov or 202.480.2086). We would be happy to meet with you and/or set up an initial planning meeting with Bloomberg Government. We look forward to working with you.

Sincerely,
Paul R. Verkuil

Paul R. Verkuil | Chairman



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