



# American Wind Energy Association Standards Development Procedures

Approved April 19, 2019



1. **General Purpose** - These procedures contain requirements and guidance for use by the American Wind Energy Association (AWEA) Wind Standards Consensus Bodies (also known as "Committee(s)") (WSC) and their subordinate groups to organize staff and administer their activities associated with the development and maintenance of AWEA Standards. These procedures are intended to comply with the guidelines listed in the document: "*ANSI Essential Requirements: Due process requirements for American National Standards*". AWEA is the ANSI-Accredited Standards Developer (ASD) for national consensus wind energy standards in the United States.
  
2. **Organization and General Responsibilities**
  - 2.1. **Wind Standards Committee (WSC)** – The consensus body responsible for the development and maintenance of proposed American National Standards (ANS), recommended practices (RPs), or technical reports (TRs), per *ANSI Essential Requirements*. The WSC shall consist of sufficiently diverse members, delegates and contributing members to ensure reasonable balance;
    - 2.1.1. **Responsibility** – The WSC shall:
      - 2.1.1.1. Develop standards, RPs, or TRs within its charter.
      - 2.1.1.2. Maintain standards, RPs, and TRs within its charter.
      - 2.1.1.3. Achieve and document consensus for the action proposed on a standard.
      - 2.1.1.4. Ensure that duplication of standards is minimized.
      - 2.1.1.5. Make good faith efforts to resolve potential conflicts between existing American National Standards and candidate American National Standards.
      - 2.1.1.6. Provide for interpretations of standards, RPs, and TRs within its charter, as applicable.
  - 2.2. **Secretariat** – AWEA staff shall serve as the Secretariat for the Wind Standards Committee (WSC). The Secretariat shall serve as Administrator of AWEA’s national standards development process and act as liaison to AWEA, with the following additional responsibilities:
    - 2.2.1. In order to maintain accreditation by ANSI, the Secretariat shall continue to maintain procedures meeting the requirements of due process and criteria for approval and withdrawal of American National Standards contained herein and continue to maintain its status as an incorporated, registered or otherwise recognized legal entity.
    - 2.2.2. Maintain accreditation as a Standards Development Organization with ANSI in accordance with ANSI requirements.
    - 2.2.3. Provide continuity of administrative oversight and support of its standards activities.
    - 2.2.4. Ensure adherence to these procedures.
    - 2.2.5. Maintain current and accurate WSC and subordinate group rosters.
    - 2.2.6. Maintain a list of standards, RPs, and TRs for which the WSC is responsible.
    - 2.2.7. Perform administrative work, including issuing meeting notices and making logistical arrangements; preparation and distribution of meeting agendas, minutes, ballots and draft standards, RPs and TRs; and maintenance of adequate records (See section 4.3 – Recordkeeping).
    - 2.2.8. Submit candidate standards approved by the WSC, with supporting documentation, for ANSI review and approval as standards, RPs or TRs.
    - 2.2.9. Publish or arrange with ANSI for publication of its standards, RPs, or TRs, revisions and addenda.
    - 2.2.10. Perform other administrative functions as required by these procedures.

**2.2.10.1.** Ensure the WSC's Committee's compliance with these standard development procedures.

**2.3. Officer Membership and Requirements**

2.3.1. Officers – the WSC shall elect a Chairperson and Vice Chairperson by a majority vote of the WSC (see section 4.5.3 of these procedures for how a majority vote is determined). Other officer positions may be established by the Committee(s) by a majority of those vote.

2.3.1.1. Nominations – Potential candidates may self-nominate or be nominated by WSC members. Candidates must be members in good standing for the WSC.

2.3.1.1.1. A call for nominations will be distributed by the Secretariat prior to a term expiring. Nominees shall fill out an application and provide a resume for Committee(s) consideration. In the event of a resignation prior to a term expiring, the Secretariat will immediately issue a call for nominations.

2.3.1.2. Terms – Terms for an officer position shall be three years. An individual may be re-elected but may not serve for more than two terms or six consecutive years in a single position. Years of service shall be counted from the WSC Annual Meeting to the following meeting the following year at AWEA Annual Conference.

2.3.1.3. Upon initial creation, the terms of the three officers may be staggered so that not all three slots are open at the same time, to provide some degree of continuity.

2.3.2. Duties of officers –

2.3.2.1. Chair – In addition to serving the WSC in fulfilling its responsibilities in section 2.3.1 and the Committee(s) in fulfilling its responsibilities under these procedures, the Chair leads and facilitates the Committee(s) activities.

2.3.2.2. Vice-Chair – In addition to assisting the Chair, in fulfilling its responsibilities in section 2.3.1 and the Committee(s) in fulfilling its responsibilities under these procedures, the Vice-chair leads and facilitates activities in the absence of the Chair.

2.3.3. Additional members -

2.3.3.1. The Committee(s) recommends, with a majority vote, approval of those voting if a quorum has been achieved additional members to the Committee(s). Individuals may self-nominate or be nominated by others for consideration by the Committee(s) for membership.

**2.4. AWEA Board of Directors** – The AWEA Board of Directors function shall be of an advisory nature to the WSC.

2.4.1. **Responsibilities** – The AWEA Board of Directors shall:

2.4.1.1. Receive periodic reports from the Secretariat on WSC activities.

2.4.1.2. In the case where there is no WSC with the requisite expertise already established, the AWEA Board of Directors shall authorize and establish a group per these procedures.

2.4.1.3. Provide guidance and serve as advisors as needed.

**3. WSC Membership**

3.1. Membership of the WSC shall consist of organizations (preferably national in scope), companies, government agencies, individuals, users, etc., having an interest in wind energy standards development.

- 3.2. The addition of members shall be subject to approval by majority vote after the membership application has been processed in accordance with these procedures.
- 3.3. Individuals are not permitted to represent more than one organization or entity on the consensus body.
- 3.4. Representation of an absent member of a WSC may be by an alternate.
- 3.5. **Alternate** - An alternate is a person who attends meetings or intends to vote in place of the member on standards actions.
  - 3.5.1. WSC members shall propose their alternate in the event they are unable to participate on standard actions or meetings.
  - 3.5.2. An alternate shall be from the same interest classification as the member represented or shall have an interest classification that maintains the required balance. An alternate has all the privileges of a member during the period of his/her service in this capacity. Such service by an alternate automatically terminates upon written request of the WSC member to the Secretariat or when the member resigns/resigns from the WSC.
- 3.6. **Categories** - In order to establish balanced representation for developing evidence of consensus on standards, WSC members shall be classified in accordance with the business and/or organizational interests of their primary source of support for WSC participation. Alternates shall not be counted in determining the balance of the WSC. The classification system and the classifications assigned to members shall be proposed by the WSC and shall be included in Appendix A to these procedures. Categories shall be updated from time to time to ensure proper representation of the broader wind energy market in the standards development process as the breadth of standards development work changes.
  - 3.6.1. If a member's classification changes because of a change in employment or another reason, action shall be taken by the WSC to:
    - 3.6.1.1. reaffirm the member to complete the present term, or
    - 3.6.1.2. reappoint the member for a full term, or
    - 3.6.1.3. terminate the membership.
  - 3.6.2. The effects of the member's changed classification on the balance of interest for the WSC shall be considered.
- 3.7. **Balance** - The membership shall be sufficiently diverse to ensure reasonable balance, without dominance by a single interest category and of the ANSI document, "*ANSI Essential Requirements: Due Process for American National Standards.*" The goal of the membership requirements is to have no single interest category constituting more than one-third of the membership on a consensus body.
  - 3.7.1. If there is an interest category constituting more than one-third on the consensus body, the WSC, through the Secretariat, will conduct outreach to underrepresented categories.
- 3.8. **Application** - A request for membership shall be addressed to the Secretariat, shall indicate the applicant's interest in the WSC's work and qualifications and willingness to participate actively, and, if the applicant is an organization, company or government agency, shall identify (a) a representative, (b) an alternate(s), if desired, and (c) contact information.
  - 3.8.1. In recommending appropriate action to the WSC on applications for membership, the Secretariat shall consider the:
    - 3.8.1.1. Need for active participation by each interest category,
    - 3.8.1.2. Balance of membership categories,

- 3.8.1.3. Extent of interest expressed by the applicant and the applicant's willingness to participate actively, and
  - 3.8.1.4. Individuals are not permitted to represent more than one organization on the consensus body.
  - 3.8.1.5. The WSC must approve each applicant with a majority vote.
- 3.9. Participation Requirements for Members** - Continuing membership on a WSC shall be based on active participation in WSC activities. All WSC members shall be required to complete the following three participation requirements for continued WSC membership:
- 3.9.1.1. Accept appointment to at least one WSC Subordinate group if asked;
  - 3.9.1.2. Respond to at least 75% of letter ballots per year with voting to abstain counting toward participation requirements; and
  - 3.9.1.3. Attend annual meetings; missing two (2) consecutive meetings and not arranging to be represented by an alternate may result in termination of membership.
- 3.9.2. The Secretariat shall review the membership list annually with respect to these requirements.
- 3.9.3. Members are expected to fulfill attendance, voting, correspondence, and other obligations. Where a member is found in habitual default of these obligations, the Secretariat shall direct the matter to the WSC for appropriate action and notify the member of their status, which may include termination of membership
- 3.10. WSC Member Responsibilities**
- 3.10.1. The duty of each member is to give thorough consideration to each subject brought before the WSC for action, to vote on approval or disapproval of each proposal, to contribute his/her expertise in the preparation of standards, to advise on personnel for membership on the WSC and subordinate groups, and to assist generally in carrying out the functions of the WSC.
  - 3.10.2. Such duties may be carried out by attendance at meetings when possible, by correspondence, and by telephone, teleconference, or other electronic means.
  - 3.10.3. Members failing to carry out their duties shall be subject to having their membership terminated.
  - 3.10.4. Members whose appointments have been terminated may appeal this action.
  - 3.10.5. Members are not eligible to vote on personnel, administrative actions, or editorial actions.
- 3.11. Observers, Public, others –**
- 3.11.1. Members of the public may express their views on items being discussed but shall not have voting privileges. See additional requirements in the Meetings section of these procedures.
- 3.12. Subordinate Groups** - The scope and duties delegated to the subordinate groups shall be approved at the time it is formed, and subsequent changes in scope or duties shall also require approval. Approval shall be by the WSC requiring the formation of the subgroup.
- 3.12.1. Creation of Subordinate Groups**
    - 3.12.1.1. When the Secretariat or an WSC determines a need to create one or more standing subordinate groups (subcommittees, technical subcommittees) to expedite standards development work, their formation (and later disbandment) requires approval by a majority vote of the associated WSC.
  - 3.12.2. Responsibilities**
    - 3.12.2.1. The subordinate group is responsible for the definitive content of one or more standard(s), RPs, or TRs and for responding to views and objections

thereon. Such subordinate groups shall meet the requirements established within these procedures for the WSC.

3.12.2.2. The WSC may approve membership of the subordinate groups reporting to it (i.e., appointments, reappointments and terminations), or the WSC Chair may appoint the membership. Resignations from subordinate groups are reported to the WSC.

**3.12.3. Subordinate Group Officers -**

3.12.3.1. Subordinate groups shall have a Chair. Subordinate groups may also have Vice Chairs. The Chair and Vice Chair shall serve no more than two consecutive three-year terms in each office. This limit can be exceeded for special circumstances if approved by at least 2/3 of the WSC. An example of a special circumstance is that there is no other qualified candidate who is willing to serve.

3.12.3.2. The subordinate group chair shall:

3.12.3.2.1. Maintain all documentation during the development of a standard document, including but not limited to:

3.12.3.2.1.1. Roster of the subordinate group;

3.12.3.2.1.2. Record of votes, comments, and resolutions; and

3.12.3.2.1.3. Meeting agendas and minutes.

3.12.3.2.2. Ensure the WSC and the Secretariat receives copies of all documentation.

3.12.3.2.3. Notify the WSC and the Secretariat of meetings of the subordinate group and facilitate all subordinate group meetings.

**3.12.4. Subordinate Group members**

3.12.4.1. Members of subordinate groups shall be approved by the WSC as appropriate. The scope, duties, and membership of all subordinate groups shall be generally the same as the requirements for the WSC. The members of a subordinate group need not be members of the WSC.

**4. GENERAL OPERATING PROCEDURES**

**4.1. Meetings -**

4.1.1. Whether to hold in-person meetings or teleconference/electronic meetings is determined by the WSC or the Chairperson on behalf of the WSC. Teleconference meetings are encouraged to minimize travel and reduce the time it takes to complete actions.

4.1.2. WSC meetings shall be held, as decided upon by the WSC and Secretariat, or by petition of five or more members, to conduct business such as making assignments, receiving reports of work, considering draft standards, resolving differences among subordinate groups and considering views and objections from any source. Meetings of WSC or other subordinate groups may be held as decided upon by the members and chairman of the associated WSC or subordinate group and Secretariat.

4.1.3. Provide for meetings open to the public. Members of the public may express their views on items being discussed but shall not have voting privileges. However, a portion of a meeting may be in executive session, when considering subjects such as personnel, accreditation, certification, registration, litigation, and other administrative matters. These portions of the meetings are considered private and are not open to the public.

4.1.4. At meetings, a quorum shall consist of 50% plus one (1) of the WSC membership eligible to vote. In the absence of a quorum, the minutes of the meeting and any

voted action shall be subject to approval by a subsequent recorded vote of the membership. An alternate representing an absent member shall be deemed a member. If a quorum is not present, actions taken at a meeting are not official until approved by letter ballot or at a subsequent meeting, where quorum requirements have been met.

4.1.5. Taping of meetings and teleconferences is prohibited by any member, guests, or attendees. Only the Secretariat, who is a member of AWEA's staff, may be permitted to tape a meeting under certain guidelines.

4.1.6. The Secretariat shall provide a minimum of 45-day notice for annual meetings.

4.1.7. The Secretariat shall provide 30-day notice of regularly scheduled teleconference/electronic meetings..

4.1.8. The notice shall describe the purpose of the meeting and shall identify a readily available source for further information. An agenda shall be available and shall be distributed in advance of the meeting to members and to others expressing interest.

4.2. **Parliamentary Procedures** - On questions of parliamentary procedure not covered in these procedures, Robert's Rules of Order (latest edition) may be used to expedite due process.

#### 4.3. **Recordkeeping**

4.3.1. The Secretariat shall maintain all recordkeeping of the WSC, which includes, but not limited to:

4.3.1.1. Agendas and minutes of meetings;

4.3.1.2. Official correspondences of the WSC; and

4.3.1.3. Membership rosters.

4.3.1.4. WSC's and subordinate groups will ensure Secretariat is provided copies of all standards document actions, including but not limited to:

4.3.1.4.1. Draft revisions of standards sent for comment,

4.3.1.4.2. Documentation of comments received on standards documents and resolution of all issues raised during the standard development process, and

4.3.1.4.3. Voting results.

4.3.2. Records relating to new, reaffirmed, or revised standards shall be retained for one complete standard cycle, or until the standard is revised.

4.3.3. Records concerning withdrawals of standard documents shall be retained for at least ten (10) years from the date of withdrawal or for duration consistent with the audit schedule.

#### 4.4. **Voting**

4.4.1. Votes for standards actions shall be recorded by the Secretariat.

4.4.2. All WSC members eligible to vote shall have an opportunity to vote. When recorded votes are taken at meetings, the WSC participants who are absent shall be given the opportunity to vote.

4.4.3. Each member of the WSC shall vote one of the following positions:

4.4.3.1. Affirmative;

4.4.3.2. Affirmative, with comment;

4.4.3.3. Negative, with comment;

4.4.3.4. Abstain.

4.4.4. WSC members casting disapproved or abstain votes or not voting responses shall provide written explanation. Disapproved votes should include an alternative action that will resolve their disapproved vote.

4.4.5.No committee member shall have more than one vote. Proxy voting is not permitted.

4.4.6.Authorization of Recorded Votes.

4.4.6.1. A recorded vote may be authorized by any of the following:

4.4.6.1.1. Subordinate group responsible for the standards action,

4.4.6.1.2. A WSC,

4.4.6.1.3. A majority vote of those WSC members present in a WSC meeting and eligible to vote, and

4.4.6.1.4. Petition of five WSC members.

4.4.7.All ballot calculations for the WSC and within these procedures are determined by the calculations referenced in Section 4.5.3 for requiring approval by majority votes and 4.5.4 for requiring approval by 2/3 votes.

#### 4.5. **Voting Obligations**

4.5.1.1. WSC participants eligible to vote or their designated alternate shall be obligated to vote on each committee action and are encouraged to vote as early as possible. Consistent failure to vote, or abstention from voting, shall be just cause for termination.

4.5.1.2. An alternate's vote shall be counted in the tally only if the corresponding WSC participant's vote is not submitted. In the event both the member and alternate vote, the member's vote takes precedence and the alternate's comment shall be considered in the same manner as a public comment.

4.5.1.3. Members may change their vote at any time up until the closure of the vote.

4.5.1.4. Votes received by the Secretariat after the recorded vote has been closed shall not be counted.

4.5.1.5. At the close of the vote, the Secretariat shall submit a complete voting tally including the text of all disapprovals and comments to the WSC and the subordinate group.

#### 4.5.2. **Voting period**

4.5.2.1. The voting period for letter ballots shall end 30-days from the date of issue or as soon as all ballots are returned, whichever comes earlier. An extension may be granted at the chairperson's option, when warranted. A follow-up letter requesting immediate return of the ballot shall be sent, as appropriate, to members and alternate members whose votes have not been received within ten (10) working days before the ballot closes.

4.5.2.2. For standard, RP, or TR-related actions taken at meetings, all members of the WSC shall be given the opportunity to vote, even if they cannot attend the meeting.

#### 4.5.3. **Actions requiring approval by majority (50% plus 1) vote**

4.5.3.1. The following actions require approval by a majority, excluding abstentions and unreturned ballots, of the membership of the WSC whether at a meeting or by letter ballot:

4.5.3.1.1. Confirmation of WSC or subordinate group officers;

4.5.3.1.2. Formation of an WSC or subordinate group, including its scope;

4.5.3.1.3. Disbandment of subordinate groups;

4.5.3.1.4. Addition of new WSC members and designation of their interest categories.

4.5.3.2. Other actions requiring the WSC approval may be approved by a majority of the members present at a meeting, including:



- 4.5.3.2.1. Approval of minutes,
- 4.5.3.2.2. Authorization of a letter ballot, and
- 4.5.3.2.3. Interpretations.

**4.5.4. Actions requiring approval by 2/3 vote**

- 4.5.4.1. The following actions require a letter ballot or an equivalent formal recorded vote with approval by at least two-thirds of those voting, excluding abstentions and unreturned ballots:
  - 4.5.4.1.1. Adoption of Committee procedures, categories of interests or revisions thereof;
  - 4.5.4.1.2. Approval of a standard, RP, or TR;
  - 4.5.4.1.3. Reaffirmation of an existing standard, RP, or TR;
  - 4.5.4.1.4. Approval of revision or addendum to part or all of a standard, RP, or TR;
  - 4.5.4.1.5. Approval of change of WSC scope;
  - 4.5.4.1.6. Approval of withdrawal of an existing standard, RP, or TR;
  - 4.5.4.1.7. Approval of discontinuance of a standards development project;
  - 4.5.4.1.8. Approval of termination of the WSC and abdication of AWEA's standards writing body responsibilities.

**4.6. Communication**

- 4.6.1. Correspondence of WSC officers should preferably be on "AWEA Wind Standard Committee" letterhead.
- 4.6.2. If correspondence between subordinate groups or between working groups of different subordinate groups involves issues or decisions (i.e., non-routine matters) affecting other subordinate groups, copies shall be sent to all affected subordinate group chairpersons and to the WSC.
- 4.6.3. Inquiries relating to the WSC should be directed to the WSC Chairperson, with copy to the Secretariat.
- 4.6.4. Written inquiries requesting interpretation of the WSC's approved ANS shall be responded to in accordance with these procedures. Revisions to the standard(s) resulting from requests for interpretation shall be processed in the same manner.

**5. STANDARDS ACTION PROCESS**

**5.1. New proposed standard document or proposed withdrawal**

- 5.1.1. Standard development proposals or withdrawals shall be recommended to the WSC by WSC members or public interest(s). All proposals shall include:
  - 5.1.1.1. A statement of purpose, scope or reason for withdrawal; and
  - 5.1.1.2. A recommendation as to whether the proposed document should be an American National Standard (ANS), recommended practice (RP) or technical report (TR).
- 5.1.2. The WSC shall approve of such proposals or withdrawals with a 2/3 vote.
  - 5.1.2.1. The Secretariat shall notify the standard development proposal author of the WSC's vote.
  - 5.1.2.2. In the event the proposal was rejected, the notification will include justification of decision.
- 5.1.3. The WSC should consult any relevant international or regional guides that may impact the proposed standard document.
- 5.1.4. The WSC, through the Secretariat, shall notify relevant ANSI-Accredited U.S. TAG if a standard is intended to be submitted for consideration as an ISO, IEC or ISO/IEC JTC-1 standard.

- 5.1.5. At the acceptance of a proposal to develop a new standard, the WSC, through the Secretariat, shall notify ANSI using the Project Initiation Notification System (PINS) form, or its equivalent.
- 5.1.6. If comments are received within 30 days from ANSI's announcement of the PINS and the comments assert that the proposed standard duplicates or conflicts with an existing American National Standard or a candidate American National Standard announced previously by ANSI, the Secretariat will notify the associated WSC as applicable. The WSC will initiate actions to resolve the issue in accordance with the active version of the *ANSI Essential Requirements*.
- 5.2. Duplication or Assertion of Conflict**
  - 5.2.1. Any affected party may assert in writing to the Secretariat, within the 30-day publication date of a PINS announcement that a proposed standards document duplicates or conflicts with the development of an ANS or a candidate ANS that has been announced previously in ANSI's *Standards Action*.
  - 5.2.2. Resolution of the duplication or conflict shall follow the procedures contained in the most recent version of *ANSI Essential Requirements*.
- 5.3. Standard document development**
  - 5.3.1. Standards documents include standards, RPs, and TRs.
  - 5.3.2. The WSC shall:
    - 5.3.2.1. Approve a subordinate group to manage the development of the approved standard action.
      - 5.3.2.1.1. The responsibility shall normally be assigned to the WSC responsible for the topic of the standard, RP, or TR.
      - 5.3.2.1.2. The WSC shall take responsibility or authorize a subgroup per these procedures.
    - 5.3.2.2. Affirm or modify the statement of purpose and scope.
    - 5.3.2.3. Notify the subordinate group chairperson of the statement of purpose and scope and direct the chairperson to develop the standards document.
    - 5.3.2.4. The WSC, through the Secretariat, shall notify directly any materially affected parties.
  - 5.3.3. The WSC or subordinate group shall develop the standard document.
- 5.4. Review and Comment**
  - 5.4.1. At appropriate stages of the development process, the WSC or subordinate group should provide access to draft proposals for review and written comment to materially affected parties, such as: the WSC, other subordinate groups, AWEA board members, AWEA members, and members of the public who have expressed interest.
  - 5.4.2. The WSC or subordinate group shall determine whether written comments received are substantive. Written comments received that are not related to the proposal under consideration shall be considered non-substantive. Resolution of all written comments shall be documented and shared as required by this procedure.
  - 5.4.3. Substantive written comments will be considered and incorporated as appropriate by WSC or subordinate group responsible for the standards action.
  - 5.4.4. The applicable WSC or subordinate group shall develop written responses along with reasons therefore, to all comments, prepare a summary of comments and responses, and make the summary available.
  - 5.4.5. All unresolved objections from the consensus body, that are related to the proposal under consideration, along with project team attempts at resolution, shall be distributed to members of the WSC who will have the opportunity to respond,

reaffirm, or change their vote on the proposal. [Refer to Section 10 for alternative public review procedures for proposed identical national adoption of ISO or IEC standards.]

5.4.6. Submitters of any unresolved objections will be informed in writing of their right to appeal.

5.4.7. If substantive changes are made to the draft standard document following consensus body ballot and public review, the document shall be recirculated to the consensus body in order to afford all members the opportunity to respond, reaffirm, or change their vote.

#### **5.5. Public Review and Notice**

5.5.1. All proposed, revised, reaffirmed, or withdrawn standards shall be announced for public review. A notification shall be included in AWEA publications that, at a minimum, directs interested parties to the AWEA website for the public review announcements, and provides instructions on obtaining copies of public review proposals. If the proposal is intended to be submitted to ANSI for approval, it shall also be announced in ANSI's *Standards Action*.

5.5.2. Proposals for new ANS or reaffirmation, revision, or withdrawal of existing ANS shall be transmitted to ANSI for listing in *Standards Action* for comment. Technical reports and Recommended Practices will be processed in accordance with these procedures.

5.5.3. The WSC may supplement the public review by having a proposed standards action sent to group(s) or individual(s) known to have an interest in the scope and purpose of the proposed standards action.

5.5.4. The WSC may supplement the public review with public hearings addressing the scope and provisions of standards.

5.5.5. The WSC or subordinate group shall attempt to resolve all negative written comments received through public review that is related to the proposal under consideration. Following consideration of each such comment, the commenter shall be advised in writing (including electronic communications) of the consideration of the comments, the action taken, or reasons why the comments could not be resolved and notification in writing (including electronic communications) of their right to appeal the standards committee's actions.

5.5.6. All unresolved public review objections that are related to the proposal under consideration, along with project team attempts at resolution, shall be distributed to members of the WSC who will have the opportunity to respond, reaffirm or change their vote on the proposal. [Refer to the ANSI Procedures for the National Adoption of ISO and IEC Standards as American National Standards for alternative public review procedures for proposed identical national adoption of ISO or IEC standards.]

5.5.7. Prompt consideration shall be given to the timely written views and objections of all participants, including those commenting on either the PINS announcement or public comment listing in *ANSI Standards Action*.

All comments resulting from Public Review shall be provided to the WSC, along with the corresponding responses and final WSC voting tally. All substantive changes made to the draft standard after the initial public review undergo a subsequent public review.

### **6. Appeals Process**

#### **6.1.1. Appeal Notice**

- 6.1.2. Directly and materially affected interests who believe they have been or will be adversely affected by a standard within the WSC's jurisdiction, or by the lack thereof, shall have the right to appeal on procedural actions or inactions of the WSC.
- 6.1.3. The appellant shall file a written complaint with the Secretariat within 60 days after the date of notification of action or at any time with respect to inactions.
  - 6.1.3.1. The complaint shall state the nature of the objection(s) including any adverse effects, the section(s) of these procedures or the standard that are at issue, actions or inactions that are at issue, and the specific remedial action(s) that would satisfy the appellant's concerns. Previous efforts to resolve the objection(s) and the outcome of each shall be noted.
- 6.1.4. Those individuals/organizations requesting an appeal will be required to include a fee in the amount of \$500 at the time of filing the actual appeals document/complaint.
  - 6.1.4.1. This fee may be waived or reduced upon sufficient evidence of hardship. Processing of such a request should take place within thirty (30) calendar days of receipt. A request could delay the official response to the formal complaint by a period of time, not to exceed thirty days after the date the WSC completes the review of the waiver/reduction.
  - 6.1.4.2. The process for reviewing a waiver or reduction for the appeals fee is as follows:
    - 6.1.4.2.1. The request for a waiver or reduction is submitted in writing to the attention of the Secretariat.
    - 6.1.4.2.2. The request provides the reasons, in detail, why a waiver or reduction is appropriate.
    - 6.1.4.2.3. Supporting materials should be submitted with the request. Additional material may be requested by the WSC.
    - 6.1.4.2.4. The request for a waiver or reduction is reviewed by the WSC.
    - 6.1.4.2.5. The WSC will reach consensus and the Secretariat will notify the submitter of the decision.
- 6.2. Response to Appeal**
  - 6.2.1. Within 45 days after receipt of the complaint, the Secretariat shall respond in writing to the appellant, specifically addressing each allegation of fact in the complaint to the extent of the respondent's knowledge.
  - 6.2.2. If the appellant and the Secretariat are unable to resolve the written complaint informally in a manner consistent with these procedures, the Secretariat shall schedule a hearing with an appeals panel on a date agreeable to all participants, giving at least ten working days' notice.
- 6.3. Appeal to WSC**
  - 6.3.1. The Secretariat shall arrange the panel, which will consist of five (5) WSC members who have not been directly involved in the matter in dispute, and who will not be materially or directly affected by any decision made or to be made in the dispute.
    - 6.3.1.1. The Secretariat shall notify the appellant of the panelist, in order to allow the appellant an opportunity to object should they perceive the existence of a conflict of interest.
    - 6.3.1.2. Any objection shall be submitted in writing to the Secretariat ten (10) working days of notice with specific objection. Any objection to panelist shall be addressed prior to the hearing.
  - 6.3.2. The appellant has the burden of demonstrating adverse effects, improper actions or inactions, and the efficacy of the requested remedial action. If that burden is met,

then the respondent has the burden of demonstrating that the committee and the Secretariat took all actions in compliance with these procedures and that the requested remedial action would be ineffective or detrimental. Each party may adduce other pertinent arguments, and members of the appeals panel may address questions to individuals.

- 6.3.3. Robert's Rules of Order (latest edition) shall apply to questions of parliamentary procedure for the hearing not covered herein.
- 6.3.4. The logistical procedures for a hearing/panel are as follows:
  - 6.3.4.1. Notes of the proceedings can be taken, but the hearing may not be recorded or transcribed. The official record consists of the formal complaint, official response, and copies of the testimony.
  - 6.3.4.2. Observers may attend the hearing so long as the Secretariat receives prior knowledge of their attendance, and there is adequate space for their attendance.
  - 6.3.4.3. The appellant and the respondent will provide twenty (20) copies of their testimony to the hearing. These copies will be distributed to the Panel and included in the formal record of the hearing.
  - 6.3.4.4. The formal complaint and official response will be given to the panelists prior to the hearing for their review. The appellant or respondent do not have to share their oral presentations prior to the hearing. However, presentations are to be based on the existing records. If new information is raised, the other party may object, and the Panel will decide whether or not to consider it.
  - 6.3.4.5. The appellant will speak first in regard to his/her appeal, and the Secretariat/respondent will speak after.
  - 6.3.4.6. Twenty (20) minutes is allocated to each side for their respective presentations. Any portion of presentation time may be saved for rebuttals.
  - 6.3.4.7. Following the presentation(s) there is a question-and-answer session directed by the Panel. There is not an established time period for this session and can be terminated upon consensus of the Panel.
- 6.3.5. Both the appellant and the Secretariat shall be responsible for their own costs, outside of the original appeals filing fee, and shall be responsible for providing sufficient copies of all documents to distribute to the appeals panel and other party.
- 6.3.6. The appeals panel shall render its decision in writing within forty-five (45) days, stating findings of fact and conclusions, with reasons thereof, based on a preponderance of the evidence. Consideration may be given to the following positions, among others, in formulating the decision:
  - 6.3.6.1. Finding for the appellant, remanding the action to the Committee or the Secretariat with a specific statement of the issues and facts in regard to which fair and equitable action was not taken;
  - 6.3.6.2. Finding for the respondent, with a specific statement of the facts that demonstrate fair and equitable treatment of the appellant and the appellant's objections;
  - 6.3.6.3. Finding that new, substantive evidence has been introduced, and remanding the entire action to the Committee or the Secretariat for appropriate reconsideration.
  - 6.3.6.4.

## 7. Interpretations

- 7.1. Interpretations are formal written responses by the WSC to written (e.g., letter, fax or e-mail) inquiries which are transmitted to the inquirer by the Secretariat on AWEA Wind Standard Committee letterhead.
- 7.2. Requirements for Interpretations:
  - 7.2.1. Interpretations shall be formal in nature.
  - 7.2.2. Interpretations shall be requested in writing in an “inquiry” format.
  - 7.2.3. The inquiry or the reply shall include the name and specific edition(s) of the standard(s) being interpreted.
  - 7.2.4. Existing interpretations shall be revised when there is an identified need for a correction or clarification. There shall be a statement advising that WSC may reconsider its interpretation when additional information is made available.
  - 7.2.5. Interpretations shall not revise existing requirements or establish new requirements.
  - 7.2.6. Interpretations shall not include explanations describing why the standard is written the way it is, except they may include any rationale that was approved through the consensus process as a part of the standards action.
  - 7.2.7. Interpretations shall not approve, certify, rate or endorse any item, construction, proprietary device or activity.
  - 7.2.8. Approval of all interpretations shall be by the WSC by majority vote.
  - 7.2.9. Approved Interpretations shall be transmitted by the Secretariat to the inquirer on AWEA Wind Standard Committee letterhead signed by the by the Secretariat.

## **8. Publication of Standard Documents**

- 8.1. Standard documents shall be published and made available as soon as possible, but no later than six (6) months after approval by the WSC. The WSC, through the Secretariat, shall publish the standard or shall grant the right of publication to ANSI.

## **9. Maintenance of standards documents**

- 9.1. Standards, RPs, and TRs shall be maintained and revised as necessary.
- 9.2. Each standard shall be reaffirmed, revised, or withdrawn within five years of its approval. Unless notification of a project initiation or request for public review announcement has already been submitted to ANSI for a standard that is maintained under periodic maintenance, the Secretariat shall submit to ANSI a request for an extension of time to reaffirm or revise a standard within thirty days following five years after the approval date of the standard.
- 9.3. ANSI approval of an American National Standard automatically expires on the tenth anniversary date of its approval.
- 9.4. A request for extension for a standard maintained under continuous maintenance may be submitted to ANSI within five years after its latest approval date, but the standard shall then be maintained under periodic maintenance.

## **10. Adoption of ISO and IEC standards**

- 10.1. The WSC may consider national adoptions of ISO or IEC standards in the absence of a corresponding AWEA ANS or where the ISO or IEC standard is the relevant sector’s preferred standard to meet safety and marketplace needs.
- 10.2. If an AWEA ANS, with the same scope does exist, it shall be withdrawn subsequent to the national adoption of the ISO or IEC standard, or revised to supplement the nationally adopted ISO or IEC standard.
- 10.3. Recommendations to proceed with approval of national adoptions of ISO or IEC standards shall be in accordance with the established voting requirements.

10.4. Refer to the ANSI Procedures for the National Adoption of ISO and IEC Standards as American National Standards for requirements for proposed national adoptions of ISO and IEC standards. Only identical or modified versions of ISO or IEC standards may be considered for national adoption.

10.4.1. The expedited procedures contained in the ANSI requirements may be used only for the identical adoption of ISO or IEC standards for which the US TAG voted or will vote in the affirmative and for which no claims of conflict or duplication with an existing American National Standard have been made. For all other circumstances, the developer's accredited procedures shall apply.

#### **11. Units of Measure**

11.1. The units of measure shall be the International System of Units (SI).

#### **12. Termination of the WSC and Abdication of AWEA's Standards Writing Body Responsibilities**

12.1. A proposal to terminate the WSC may be made by an WSC member, or directly and materially affected interest. The proposal shall be submitted in writing to the AWEA Board of Directors and to the Secretariat who will notify ANSI. The proposal shall include at least the following:

12.1.1. Reasons why the Committee should be terminated; and

12.1.2. The name of the organization(s) that will assume responsibility for maintenance of any existing American National Standard(s) that are the responsibility of the Committee.

12.2. Concurrently, the proposal shall be announced for comment in *ANSI's Standards Action*.

#### **13. Commercial Terms and Conditions**

13.1. Provisions involving business relations between buyer and seller such as guarantees, warranties, and other commercial terms and conditions shall not be included in a Standards Document. The appearance that a Standards Document endorses any particular products, services, or companies must be avoided. Therefore, generally it is not acceptable to include manufacturer lists, service provider lists, or similar material in the text of a Standards Document or in an annex (or the equivalent). Where a sole source exists for essential equipment, materials, or services necessary to comply with or to determine compliance with the Standards Document, it is permissible to supply the name and address of the source in a footnote or informative annex as long as the words "or the equivalent" are added to the reference. In connection with Standards Documents that relate to the determination of whether products or services conform to one or more Standards, the process or criteria for determining conformity can be standardized as long as the description of the process or criteria is limited to technical and engineering concerns and does not include what would otherwise be a commercial term.

## **Appendix A - Membership Categories**

The AWEA Wind Standard Committee may define their membership/interest categories as appropriate for consensus towards any given standards activity. Membership categories should reflect the function of the nature of the standards being developed. Membership categories shall be discretely defined, cover all materially affected parties and differentiate each category from the other categories. Each WSC will ensure their membership categories are made available with descriptions to the committees and the public. At a minimum, membership/interest categories will include:

1. Producer
2. User; and
3. General Interest



## **Appendix B - AWEA Patent Policy**

1. For any proposed or approved American National Standards, AWEA will comply with the requirements set forth in the most current version of the ANSI Patent Policy.

## Appendix C - AWEA Anti-Trust Policy

### Antitrust Guidelines for Discussions at AWEA Committee Meetings/Calls

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It is extremely important that association members, meeting attendees, and speakers understand that the antitrust laws regulate their conduct at association meetings. An inadvertent violation of the antitrust laws by a few members, or even the perception of such a violation, could result in an expensive protracted investigation or litigation that could harm the association and/or result in criminal prosecution of individual members. The most powerful Federal statute, the Sherman Act, provides substantial penalties. Individuals can be fined up to \$1M and imprisoned for up to ten years for violations. Corporations can be fined hundreds of millions of dollars. Defendants found guilty of violating the Sherman Act are subject to treble damages in civil litigation.

#### What You Can't Do:

1. Do not enter into any agreements with competitors regarding or affecting prices.
2. Do not discuss your company's prices or terms of sale with competitors.
3. Do not agree with competitors:
  - on pricing or profit levels.
  - to give or deny cash discounts or promotional allowances.
  - to give or deny credit to a specific customer, or to establish uniform credit terms.
  - to deal or not deal with any customer or agree on prices charge any customer.
4. Do not discuss allocation of markets or customers.
5. Do not enter into agreements with competitors' price quotations or bids.

#### What You Can Do:

1. Discuss better ways to educate and provide meaningful information to members about the industry.
2. Discuss industry trends, economic forecasts, and materials availability, emphasizing that each company is free to use this information as it sees fit and should make its own business decisions.
3. Discuss Federal and State governmental actions and develop industry-wide lobbying efforts.
4. Discuss technological advances and better ways to utilize them.
5. Discuss ways to improve the public image of the industry

### SEE FOLLOWING PAGES FOR FULL ANTITRUST GUIDELINES

#### AWEA ANTITRUST COMPLIANCE GUIDELINES

One of the major goals of AWEA is to create an environment where industry members can meet and discuss policies and issues relevant to the industry with the understanding that AWEA activities will be conducted in accordance with the antitrust laws. AWEA recognizes the importance of the antitrust laws to preserve and foster competition and is committed to strict compliance with these laws. The AWEA Board of Directors has adopted the following Antitrust Compliance Guidelines to be used by members and staff in conducting AWEA activities.

#### Application of the Antitrust Laws to Association Activities

AWEA understands that trade association activities provide opportunities for competitors to gather, discuss issues, and share business and industry information. Therefore associations must conduct their activities carefully and cautiously to ensure that they do not create situations that could result in actual or perceived violations of the

antitrust laws. Antitrust compliance is important, among other reasons, because antitrust violations can result in felony convictions leading to multi-year jail sentences and civil fines and penalties in the hundreds of millions of dollars. Association members and staff may be subjected to costly and time-consuming investigations and litigation, even where no antitrust violation ultimately is found. Even thoughtless or inadvertent violations can ruin industry associations, bankrupt companies, and cause great harm to individuals' professional and personal lives. It is AWEA's goal to make members aware of these laws and be proactive in ensuring compliance. Members and staff are encouraged to consult with AWEA or company legal counsel if they have any questions about whether a particular action raises antitrust concerns.

### **Relevant Antitrust Statutes**

The two antitrust laws that most affect trade association activities are the Sherman Act<sup>1</sup> and the Federal Trade Commission Act.<sup>2</sup> Section 1 of the Sherman Act prohibits all contracts, combinations or conspiracies that unreasonably restrain trade. For antitrust law purposes, an "agreement" need not be a formal written agreement or even an oral understanding. Unlawful agreements can be inferred from circumstances and events where there is no direct evidence of a formal agreement. Trade association activities among competitors can present a venue and opportunity to reach an anticompetitive agreement.

AWEA members should understand that the nature of conspiracy law might render liable those who merely sit at a meeting while others engage in an illegal discussion, even though they did not actively participate. Mere attendance at these discussions may be enough to imply acquiescence in the scheme and make the passive person as liable as those who actively engaged in the discussion.

The Sherman Act can be enforced by the Department of Justice ("DOJ"), State Attorneys General, and under certain circumstances by private plaintiffs harmed by the alleged violation. Section 5 of the Federal Trade Commission Act prohibits "unfair methods of competition in or affecting commerce." This statute deals with illegal actions committed by individuals and/or companies and, unlike the Sherman Act, does not require the existence of a conspiracy. This statute is enforced by the Federal Trade Commission (FTC), which has broad powers to determine what constitutes unfair methods of competition.<sup>1</sup> FTC investigations tend to focus on industry practices and association activities that the FTC considers to be unfair trade practices. Associations are frequent targets of such investigations. If the FTC finds the existence of an unfair trade practice, it will impose fines and consent decrees upon participants.

<sup>1</sup> FN 2 15 United States Code § 1. (15 USC §1). <sup>2</sup>15 USC §45<sup>i</sup>

### **Activities Strictly Forbidden by the Antitrust laws ("Per-se Violations"):**

As mentioned above, the Sherman Act forbids combinations and conspiracies that unreasonably restrain trade. Court cases interpreting the Act have identified several types of agreement as "per-se illegal." Per-se illegal violations are those that have been deemed so plainly anti-competitive that they are conclusively presumed illegal and cannot under any circumstances be determined to be reasonable. Per-se violations are the most dangerous type, and may be prosecuted criminally. They must be avoided in all circumstances. The kinds of per-se violations that are most relevant to association activities are as follows:

**1. Price Fixing.** Agreements among two or more competitors affecting price are per se unlawful. Price fixing may exist even if there is no specific agreement regarding the price to be charged, and price fixing agreements have been inferred where competitors simply exchange price lists or other competitive information. Any agreement among competitors that will affect the price to be charged can be a violation. For example, agreements among competitors

regarding credit terms, discounts, or shipping charges will affect the price charged to customers and fit into the price fixing, per-se violation category. Competitors should scrupulously avoid discussing prices, the components of pricing, or related terms of sale.

**2. Bid Rigging.** Bid-rigging refers to agreements among two or more competitors regarding how they will or will not compete for a particular sales opportunity. Bid rigging may include agreeing with a competitor not to bid on a specific project, sharing information with a competitor about confidential bids or bid strategies, bidding with the understanding that one party will be the low bidder, and submitting “complementary bids” at the request of a competitor.

**3. Customer Allocation.** Agreements to divide and allocate markets among various competitors are also a per-se violation. Agreements not to pursue a competitor’s customers, or an agreement not to pursue a category of customer commonly served by a competitor, also fit into the category of customer allocation schemes.

**4. Territorial Market Allocation.** Agreements to allocate customers on the basis of the geographic location of the customer or the market are a per-se violation, as are agreements among competitors not to enter markets based on geographical boundaries.

**5. Agreements on Hiring or Compensation.** Agreements between competitors to fix the compensation or benefits paid to employees are per se unlawful. The DOJ has also announced that, under certain circumstances, it will prosecute as a per se violation agreements among companies not to hire, or not to solicit for employment, each other’s employees. Note that companies that do not compete to sell the same goods and services, may nonetheless compete in hiring employees.

**6. Group Boycotts.** A classic Group Boycott exists when competitors agree not to do business with, or agree to take some kind of joint action such as deny credit, against a competitor or a customer. Such actions are considered to be naked restraints of trade and are per-se violations. In the trade association context, Group Boycotts can include agreements to deny certain competitors access to resources they need to compete effectively.

#### **Activities Subject to “Rule of Reason” Antitrust Analysis:**

The so-called antitrust “rule of reason” analysis applies to all alleged restraints that have not been labeled as per-se violations. This means that the alleged restraint may or may not be illegal depending on the circumstances. The rule of reason analysis requires that a court must consider the purpose for a restraint and its effect on competition in the relevant market in determining if the restraint is reasonable and therefore lawful.<sup>4</sup> It is important for AWEA members to recognize the kinds of conduct that are subject to the rule of reason analysis and ensure that programs that may be subject to this rule are conducted properly, with the assistance of counsel, as needed. Some activities which are subject to the rule of reason analysis are as follows:

**1. Standards Setting.** Product standard setting and development refers to the process of identifying and agreeing upon a specific set of criteria to which a product should conform. Standard setting can be pro-competitive in many ways, including ensuring product quality and safety, and fostering interoperability of products. However, standards can create antitrust violations if the criteria have the effect of limiting or eliminating certain products or competitors from the marketplace. A trade association can lawfully participate in standard setting, provided that it is done in a way that provides interested parties with the opportunity to participate in the development and implementation of the standard. Consult with counsel before engaging in standard-setting activity.

**2. Certification.** If an association engages in the practice of certifying products or the expertise and qualifications of members, it must be aware that such certification activities must be conducted properly to avoid antitrust violations. Such activities will meet the rule of reason analysis if it can be shown that granting or denying certification is based upon legitimate,

preferably measurable and objective, criteria and does not have the effect of limiting or restraining competition.

**3. Information Exchanges.** Sharing non-public information -- such as statistics, pricing information, marketing reports, raw material costs and employee compensation – with fellow members can cause antitrust problems if not structured properly. Information-sharing programs must be structured in ways that do not disclose pricing strategies, market share or other areas that could create or provide the inference of unlawful agreements or coordination. Consult with legal counsel in advance regarding the design and implementation of any program to share competitively sensitive information, such as prices, costs, or compensation.

**4. Government Relations Activities.** A very important role for most associations is to act as the liaison between the industry and legislatures and government regulators. Joint action by competitors to influence government action is immune from antitrust liability under the provisions of the Noerr-Pennington doctrine.<sup>3</sup> There are certain kinds of lobbying activities by competitors that are exceptions to the Noerr- Pennington doctrine, however, and legal advice should be obtained to properly structure lobbying campaigns to ensure compliance.

## **AWEA Antitrust Compliance Operating Procedures: Committees, Task Forces, Working Groups**

1. Each AWEA committee, task force, and working group meeting will begin with a reminder to all attendees about the Association's antitrust compliance policy.
2. Agendas will be prepared in advance for all meetings. Agendas will be reviewed by staff and where appropriate by legal counsel.
3. Minutes will be kept at all meetings and will note that attendees were reminded at the beginning of the meeting of the Antitrust Guidelines. If appropriate, a copy of the guidelines should be included in the minutes.
4. Meeting minutes shall be reviewed by staff, and if appropriate by legal counsel, prior to distribution to ensure that antitrust sensitive discussions are properly documented.
5. The Committee chair and staff will seek legal advice when needed to ensure that committee projects and programs are compliant with relevant antitrust laws.
6. AWEA staff will receive periodic briefings by legal counsel concerning antitrust compliance and will seek legal advice when necessary.

These guidelines have been prepared for the American Wind Energy Association by the Association's antitrust counsel as part of the AWEA Antitrust Compliance Program.

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<sup>1</sup> FN 2 15 United States Code § 1. (15 USC §1). <sup>2</sup>15 USC §45

<sup>2</sup> See, National Society of Professional Engineers v. US, *ibid*.

<sup>3</sup> See E RR President's Conference v. Noerr Motor Freight, 365 US 127 (1961); United Mine Workers of America v. Pennington, 381 US 657 (1965)