



# **Technical Standards Program**

## **Policies and Procedures for the Development and Approval of ESTA's Technical Standards**

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## 1 Scope

These policies and procedures define the process by which the Entertainment Services and Technology Association ("ESTA") will develop, approve, revise, reaffirm, and withdraw ESTA standards applicable to the entertainment industry. Guided by these policies and procedures, ESTA will approve and publish ESTA standards that represent the consensus of entertainment industry equipment manufacturers, equipment and service providers, users, and other parties that are directly and materially affected by the standards.

## 2 Purpose

ESTA seeks to develop standards

- (1) that promote compatibility among equipment, products, and systems of competing manufacturers;
- (2) that help assure that equipment or products, or the manner in which they are to be used, do not create unreasonable risks of injury to persons or property; and
- (3) that develop and promote practices and solutions to problems with equipment and products that impede their safe and effective use.

Wherever possible, ESTA will strive to develop performance-based standards and to avoid construction-based standards, which may indirectly work to limit advances or innovation in design. ESTA hopes that its standards will gain acceptance in the entertainment industry and that their use will benefit manufacturers, distributors, purchasers, users, and the public.

Participation in the development of ESTA's standards is voluntary in nature. The process of developing ESTA standards is initiated, overseen, and managed by private sector initiative, free of government control. Standards that have completed development are published and made available for voluntary use, including adoption, use, and enforcement by public governmental entities and by private entities. ESTA does not have any authority to enforce compliance with any standard and does not prohibit products or practices that do not comply.

ESTA does not approve, inspect, or certify any installations, procedures, equipment, or materials for compliance with codes, recommended practices, or standards. Compliance with an ESTA standard or an American National Standard developed by ESTA is entirely within the control and discretion of a person using or relying on the standard. Any markings, identification, or other claims of compliance do not constitute certification or approval of any type or nature whatsoever by ESTA.

## 3 Definitions

For the purposes of this document, the following terms and expressions are defined as follows.

**Consensus body:** the official decision-making group for an issue or topic.

**Custom-market producer:** a working group interest category, a member of which is a producer of goods in which more than 50% of its product lines are designed and manufactured for specific customers to meet specifications provided by those customers and in which the products provided to different customers are substantially different. The proportion of the product line shall be determined by the relative monetary values of the products at the wholesale level.

**Dealer or rental business:** a working group interest category, a member of which is a company whose major business (more than 50%) is in the reselling or renting of products from several manufacturers to the company's customers.

**Designer:** a working group interest category, a member of which incorporates the products and services regulated by ESTA standards in their work but is not involved in the production, sale, or distribution of the actual products, nor is regularly employed by those who are involved in the production, sale, or distribution of the actual products. Examples are theatre consultants, architects, and engineers who derive more than 50% of their income as a design professional.

**Designer of events:** an Event Safety Working Group interest category, a member of which is a person or company that designs elements of an event, but who is not a producer. The elements may be artistic – e.g. scenery – or technical, such as crowd control or security plans.

**Equipment producer:** an Event Safety Working Group interest category, a member of which is a person or company that makes equipment for events.

**Event insurance company:** an Event Safety Working Group interest category, a member of which is a company that provides insurance coverage for live events. An insurance broker would be considered to represent the interests of a company and not be independent if that company represents more than 50% of the broker's business.

**Event producer:** an Event Safety Working Group interest category, a member of which is a person or company involved in the overall management of a live event.

**Event worker:** an Event Safety Working Group interest category, a member of which is a person who works at an event, such as a stagehand, technician, or stage manager.

**Executive Committee:** the Executive Committee established as a standing committee of ESTA pursuant to the Bylaws of the Entertainment Services and Technology Association.

**General interest:** a working group interest category, a member of which is a party that is affected by the work of the group but that may not reasonably be considered as being in any other interest category applicable to the working group. Examples are companies that do such a variety of business in a subject area that no one thing (renting or manufacturing, for example) could be considered over 50% of the business.

**Guide:** a standard that has few or no specific requirements that must be met to comply with the standard; the bulk of the document is recommendations or suggestions that may or may not be accepted by the user of the standard at his or her discretion

**Interest category:** a group of parties directly and materially affected by a standard based on the relationship of the parties to the subject of that standard. For example, manufacturers of a product covered by a standard shall be considered a member of one of the producer interest categories. Users of the products covered by the standard are considered members of the user interest category.

**Letter ballot:** a voting method, which may be conducted with or by paper ballots, PDF forms, fax, web-based polling software, or other electronic means, in which each voter is given an opportunity to indicate his or her preference and to offer written comments and reasons in support of that vote; each such vote shall be recorded in the summary records of the letter ballot with the voter identified and the voter's offered comments or reasons stated.

**Mass-market producer:** a working group interest category, a member of which is a producer of goods in which more than 50% of the product line is uniform products, designed and manufactured for non-specific customers without modification for any particular customer. The proportion of the product line shall be determined by the relative monetary values of the products at the wholesale level.

**Normative standard:** a standard that states specific and unambiguous requirements that must be met to comply with the standard. A normative standard is written in a style suitable for reference by national model codes or other regulatory documents.

**Performing artist:** an Event Safety Working Group interest category, a member of which is a person or company that performs at live events (e.g., singers, dancers, acrobats), or an organization who represents that interest category member type.

**Quorum:** the number of people required to be present at a meeting to conduct the business of the meeting, according to the rules for that particular assembly or committee.

**Recommendation:** a standard that has some specific and unambiguous requirements that must be met to comply with the standard, but that also contains some recommendations or suggestions that may or may not be accepted by the user of the standard at his or her discretion.

**Simplemajority:** the affirmative vote of more than 50% of those casting a vote other than abstain.

**Standard:** a guidance or model regulatory document that has been developed in an open consensus process in which input has been solicited from all parties that are directly and materially affected by the requirements of the document.

**Substantive change:** A substantive change in a standard is one that directly and materially affects the use of the standard. Examples of substantive changes include:

- “shall” to “should” or “should” to “shall”;
- addition, deletion or revision of requirements, regardless of the number of changes;
- addition of mandatory compliance with referenced standards.

**Supermajority:** the affirmative vote of at least two-thirds of those who voted, excluding abstentions, and more than 50% of the total voting body, including abstentions.

**Task group:** a subcommittee formed to perform a prescribed task.

**Technical Standards Council or TSC:** the committee appointed by the ESTA Board of Directors to manage the standards development activities described in this document. The TSC is a standing committee of ESTA under the Bylaws of the Entertainment Services and Technology Association.

**Total voting body:** all possible votes that may be cast, including those votes not cast because of absence, abstention, or other reasons. A principal and his or her alternates, however many alternates there may be, constitute one vote in the total voting body.

**User:** a working group interest category, a member of which is a person or company that uses the products that are the subject of a working group, and for whom this use results in a net income that is greater than any income derived from making, selling, or renting the subject products to others. Users for the purposes of this clause shall include educators and product end-users.

**Working group:** a committee of experts and interested parties created by the TSC to address an area of technology or practice having interest to the entertainment industry. The working group is the consensus body for standards and other documents it develops.

## 4 Committee Structure

ESTA shall use the following hierarchy of committees, working groups, and task groups for the development, processing, and approval of standards.

ESTA Board of Directors  
Executive Committee  
Technical Standards Council (TSC)  
One or more topic-oriented working groups  
Optionally one or more task groups within each working group

### 4.1 ESTA Board of Directors

The ESTA Board of Directors, according to the Bylaws of the Entertainment Services and Technology Association, shall appoint the members of the Technical Standards Council.

#### **4.2 Executive Committee**

According to the Bylaws of the Entertainment Services and Technology Association, the North American Executive Committee shall have the authority of the Board of Directors to approve for submission draft American National Standards to the American National Standards Institute that were created under the Technical Standards Program; approve or ratify actions and recommendations of the Technical Standards Council; and adjudicate appeals as outlined in these *Policies and Procedures*.

#### **4.3 Technical Standards Council**

The TSC shall manage the activities necessary to identify new standards projects, to develop and review emerging standards, to approve the publication of finished standards, and to approve forwarding finished standards to the American National Standards Institute for possible adoption as American National Standards, subject to approval by the Executive Committee, pursuant to the Bylaws.

The TSC shall be responsible for:

- (1) creating and disbanding working groups to address areas of technology or practice of concern to the entertainment industry.
- (2) applying for accreditation by ANSI and maintaining accreditation in accordance with ANSI requirements, including submission of working group rosters;
- (3) overseeing compliance with these procedures by the working groups;
- (4) maintaining a roster of the working groups and a list of standards for which each working group is responsible;
- (5) providing a secretary to perform administrative work, including secretarial services; preparation of meeting notices and the handling of meeting arrangements; preparation and distribution of meeting agendas, minutes, ballots, and draft standards; and maintenance of adequate records;
- (6) provide support, guidance, and oversight to assure high quality and consistency of the standards produced;
- (7) establishing budgets and overseeing financial matters relating to the Technical Standards Program, subject to review and approval by the ESTA Board of Directors;
- (8) submitting candidate standards approved by working groups, with supporting documentation, for ANSI review and approval as American National Standards; and
- (9) performing other administrative functions as required by these procedures.

#### **4.4 Working groups**

Working groups shall be created by the TSC to address an area of technology or practice materially affecting the interests of the entertainment industry. The TSC may create as many or as few working groups as it deems necessary. The TSC shall make every reasonable effort to insure that its working groups do not directly conflict with the standards-making efforts of any other organization. A Supermajority vote of the TSC shall be required to approve the creation of a new working group or disbanding an existing working group.

The working group shall be considered the consensus body for standards developed by the working group.

##### **4.4.1 Working group responsibilities**

The working group shall be responsible for:

- (1) proposing standards within the scope of the ESTA Technical Standards Program;

- (2) voting on approval of proposed standards within the scope of the ESTA Technical Standards Program;
- (3) maintaining the standards developed by it within the ESTA Technical Standards Program;
- (4) responding to requests for interpretations of the standard(s) developed by the working group; and
- (5) other matters requiring working group action as provided in these procedures.

#### **4.4.2 Formation of working groups**

The TSC may form a working group to address any issue within the scope of the ESTA Technical Standards Program, with or without a specific request coming from outside the TSC.

Any person or organization may ask the TSC to create a working group by sending a written request to that effect to the TSC chair. Neither the ESTA Board of Directors nor the TSC shall restrict in any way a person's or organization's ability to request creation of a working group. The written request should include a description of the area of interest to be covered by the proposed working group, problems in the industry that would be solved or ameliorated by normative standards, recommendations, or guides created by the working group, the name of one or more qualified persons who are willing to serve as chairperson for the working group, and any other justification of the need that might be useful to the TSC. The TSC shall respond in writing within 90 days to any written request to create a working group.

The minimum size of a working group shall be five principal or individual voting members.

The TSC shall appoint a chairperson or multiple chairpersons for each working group being formed. The working group chairperson or chairpersons shall appoint at least four initial principal or individual working group members to meet the minimal size requirement from applications submitted by those expressing an interest in participating in the work of the group. At any working group meeting, additions to the working group membership shall be approved via a Simplemajority vote of the existing working group membership.

The TSC shall establish the initial interest categories applicable to the working group, drawing from those listed in 5.2.3 Interest categories, and shall include the General Interest category.

The TSC shall appoint a secretary for the working group.

#### **4.4.3 Dissolution of working groups**

A working group that has finished all tasks within its charter by a Supermajority vote can request that the TSC disband the working group. The TSC shall review any such request and possibly disband the working group. The TSC without a request from the working group may disband a working group when the TSC feels that it has finished all the tasks within its charter. The TSC shall use a Supermajority vote when considering disbanding a working group.

The TSC shall disband a working group if its principal and individual voting membership falls below five.

#### **4.5 Task groups**

A task group is created to address a single task, such as drafting a standard or identifying technical issues that need to be addressed in a standard. The membership of a task group subordinate to a working group shall be appointed by the working group chairperson from volunteers in the working group and shall be limited to those people appointed by the chairperson. The task group shall cease to exist when its task has been completed or the deadline for the completion of the task is reached. A task group of a working group may be disbanded at any time by a majority vote of the working group or TSC. A task group of the Technical Standards Council may be disbanded at any time by a majority vote of the TSC.



## **5 Membership**

### **5.1 Technical Standards Council**

Membership in the Technical Standards Council is by appointment by the ESTA Board of Directors. At least two members of the Technical Standards Council shall be members of ESTA's Board of Directors. The Technical Standards Council may recommend possible members to the Board. The ESTA Board of Directors may ask affiliated organizations to recommend persons to serve on the TSC as representatives of the organizations.

The ESTA Board of Directors and the TSC chairperson shall work to insure that there is a balance of interests in the TSC and that it is not dominated by any sector of the entertainment industry.

### **5.2 Working groups**

Membership in a working group shall be open to all persons and organizations who are directly and materially affected by the actions of the working group. Working group membership shall not be conditioned upon membership in any organization. Working group membership or voting status may be limited, within reason, on the basis of technical qualifications or interest category.

ESTA desires that a balanced cross-section of interested parties participate in working group activities, including: consultants, distributors, installers, insurers, manufacturers, professional societies, trade associations, vendors, workers, and users. However, the ESTA standards making process is intrinsically voluntary. Parties committed to the success of a standards-making project will produce a better standards document.

#### **5.2.1 Membership entities**

A membership entity is a person; corporation or company; federal, state, local, or military agency; partnership; labor union; association; or any other legal entity. Generally, there shall be only one voting membership for each separate entity. For purposes of membership and voting, all subsidiaries, affiliates and related entities comprising a corporation or company shall be deemed to be a single entity controlled by one parent.

There shall be only one voting membership for each separate corporation or company. A separate corporation or company is defined as an entity that has a controlling body (such as a Board of Directors) that is not controlled by another body. When a working group member is employed by a company that is controlled by another company, the member shall be considered as representing the interests of the uppermost, controlling company.

There shall be only one voting membership for each federal or military department or agency, state, or local government. If distinct divisions of a governmental organization demonstrate independent interests and authority to make independent decisions in the area of the activity of the working group, each shall be considered a separate entity and shall be permitted to apply for membership.

There shall be only one voting membership for each separate consultant organization. A consultant organization is defined as an organization whose principle source of revenue is derived from providing consulting services for other organizations. In order to be in a voting member status category, consultant organizations shall have to declare that their participation is not being funded by any organization already having a voting membership.

There shall be only one voting membership for each separate educational institution. A separate educational institution is defined as an entity that has a controlling body (such as a Board of Regents) that does not report to another, similar controlling body. If distinct divisions of an educational organization demonstrate independent interests and authority to make independent decisions in the area of the activity of the working group, each shall be considered a separate entity and shall be permitted to apply for membership.

There shall be only one voting membership for each separate labor union. If distinct locals of a labor union demonstrate independent interests and authority to make independent decisions in the area of the activity of the working group, each shall be considered a separate entity and shall be permitted to apply for membership.

There shall be only one voting membership for each separately organized special interest club or society, professional society, trade association, research or testing consortium, or other standards development organization. For these types of entities, their principal and alternate representatives may be employed by other organizations who have voting memberships.

## **5.2.2 Balance of interests and dominance**

### **5.2.2.1 Balance of interests**

The standards development process should have a balance of interests. Processing of membership requests shall be done with the goal of maintaining a balance of interests in mind. Participants from diverse interest categories shall be sought with the objective of achieving balance.

Historically the criteria for balance are that a) no single interest category constitutes more than one-third of the membership of a consensus body dealing with safety-related standards or b) no single interest category constitutes a majority of the membership of a consensus body dealing with other than safety-related standards.

### **5.2.2.2 Dominance**

The standards development process shall not be dominated by any single interest category, individual or organization. Dominance means a position or exercise of dominant authority, leadership, or influence by reason of superior leverage, strength, or representation to the exclusion of fair and equitable consideration of other viewpoints.

Unless it is claimed by a directly and materially affected person that a single interest category dominated the standards development process, no test for dominance is required.

Any written claim of dominance shall be evaluated by the Technical Standards Council.

## **5.2.3 Interest categories**

The interest categories in a working group appropriate to the development of consensus in any given standards activity are a function of the nature of the standards being developed. The interest categories appropriate to a standards activity shall be selected from the following:

- (1) equipment producer;
- (2) event producer;
- (3) event insurance provider;
- (4) event worker;
- (5) mass-market producer;
- (6) custom-market producer ;
- (7) dealer or rental business;
- (8) designer (or designer of events);
- (9) user; and
- (10) general interest.

To verify proper interest balance in a working group, each voting organization shall be listed as belonging to one of the interest categories.

## **5.2.4 Voting status**

Working group members shall be identified as belonging to one of the following voting status categories:

- (1) principal
- (2) alternate

- (3) individual
- (4) observer

Principal and alternate working group members shall be deemed representatives of the same organization. A voting organization shall have one principal member and only one vote, regardless of the number of principal and alternate members representing the same organization. An organization may have as many alternate members as it desires.

Individual working group members are persons of special expertise who are not affiliated with an organization having an interest in the work of the group. Each Individual working group member shall have one vote. An individual member may not have alternates.

An observer member may not vote, but may participate in discussions at working group meetings or submit written comments on the activities of a working group to a working group.

### **5.2.5 Membership application**

Requests for membership in an active working group shall be submitted in writing to the working group chair. The TSC shall provide a standard form for requesting working group membership. The form shall be readily available. Copies of all processed working group membership forms shall be archived.

The membership application shall have fields for the applicant to list the applicant's name, contact information, employer, what business or organization the person will represent, and to indicate interest category and voting status desired. The application shall also ask the applicant to state his or her interest in the work of the group and ability to participate in the working group's activities. The application shall also carry a notice in keeping with the policies regarding protected intellectual property stated in clause 11.2, Copyright policy.

### **5.2.6 Membership processing**

#### **5.2.6.1 Voting for membership**

After initial formation of a working group, the working group membership shall approve the addition of new members by a Simplemajority vote. Any requests for working group membership shall be acted upon at the first working group meeting following the chair's receipt of them. Working group processing of new membership requests shall be done at working group meetings before any voting on documents for action. The right to vote in a working group meeting shall take effect immediately after a membership request has been approved and the new member's voting status has been determined.

#### **5.2.6.2 Denial of membership or requested voting or interest category**

The working group may deny working group membership to applicants who have no direct and material interest in the work of the group.

The working group and the TSC shall exercise due diligence in verifying the self-declared interest category on the application. The working group or Technical Standards Council shall assign a different interest category to an applicant if the interest category shown on the application form appears to have been in error, based on readily available information. The interest category assignment may be appealed by the applicant, who shall request a review of the interest category assignment by the working group. Such review shall be done at a regularly scheduled meeting, and the results shall be documented in the meeting minutes.

The working group may deny voting status to an applicant if the applicant's interest category is over-represented on the working group. In this case, the applicant shall be given observer status and shall be put on a waiting list. As voting members in the over-represented interest category leave, they shall be replaced by people on the observer waiting list on a first-come-first-serve basis.

The working group may deny voting status to an applicant and assign observer status if the working group has reason to believe that the applicant will not be able to attend meetings regularly, will not be able to

respond to letter ballots, or lacks the technical expertise needed to participate in the deliberations of the working group. This action may be appealed by the applicant in accordance with 17, Appeals

Any applicant denied his or her requested voting status shall be notified of his or her right to appeal. Notice of the appeals process shall be included on the working group membership application form.

### **5.2.7 Changes in employment**

Whenever a working group member who is employed by or affiliated with, and represents, an entity leaves the employment of that entity or otherwise terminates his or her affiliation with same, that representative's membership shall be terminated, unless the entity certifies in writing that the member shall continue as its representative. Each member shall promptly inform the chair of the working group of a change in employment or termination of affiliation which may cause a termination of his or her membership hereunder.

If a represented entity is sold to or in any way consolidated with another entity that does not have representation on the working group, the representative's working group membership shall be reviewed by the working group chairperson, who may ask that the working group reaffirm the person's working group membership by a Simplemajority vote.

If a represented entity is sold to or in any way consolidated with another that already has representation on the working group, affected representatives shall be advised by the working group chair that only one may serve as the principal voting member for the combined companies, and the voting status for one of the former principals shall be changed to alternate.

### **5.2.8 Review of membership**

The Technical Standards Council shall review working group membership lists annually with respect to maintaining a balance of interests and active participation by members. Where a working group is found to be out of balance or a member is found in habitual default of the obligations for active participation, the TSC shall direct the matter to the working group for appropriate actions.

#### **5.2.8.1 Attendance**

Voting members of working groups shall attend meetings regularly and may not miss three consecutive working group meetings without a loss of voting status. The attendance requirements shall be made known to all working group members at every working group meeting. If a working group member fails to meet the attendance requirements, the organization or individual shall be notified in writing that their working group membership is in jeopardy. If the organization or individual fails to meet the attendance requirements after the written notification, their status shall be changed to observer. The working group may restore voting status upon request made by the organization or individual, provided that the organization or individual attends the working group meeting at which the request is considered. Restoration of voting status shall require a simplemajority vote.

Absentee voting shall not count toward meeting attendance.

#### **5.2.8.2 Responding to letter ballots**

If any voting member and his or her alternate fails to actively participate by failing to respond to two consecutive letter ballots, the TSC shall notify the working group chairperson and the affected working group member that the working group membership is in jeopardy. If the voting member and his or her alternates fails to respond to the next working group letter ballot, their status shall be changed to observer. The working group may restore voting status upon request made by the organization or individual, provided that the organization or individual attends the working group meeting at which the request is considered. Restoration of voting status shall require a simplemajority vote.

### **5.3 Task groups**

A task group's membership shall be drawn solely from the membership of its parent working group.

## **6 Officers**

### **6.1 ESTA Board of Directors**

The ESTA Board of Directors, including the qualification and selection of membership, is governed by the ESTA Bylaws.

### **6.2 Technical Standards Council**

The chairperson of the Technical Standards Council shall be appointed by the ESTA Board of Directors.

### **6.3 Working groups**

The Technical Standards Council shall appoint the initial chairperson or chairpersons of a working group at its formation. Subsequent chairs and co-chairs shall also be appointed by the TSC, after consultation with the working group members. The term of appointment shall be for two years, but a chairperson may be reappointed for multiple, successive terms. The Technical Standards Council may remove or replace a working group chairperson at any time by a Supermajority vote.

### **6.4 Task groups**

The working group chairperson shall appoint a leader or leaders for each task group.

## **7 Meetings**

### **7.1 Open meetings**

Meetings of the Technical Standards Council, working groups, and task groups shall be open to all members and to all others having a direct and material interest. An agenda shall be available for all TSC and working group meetings, and shall be distributed in advance of the meeting to members and to others expressing interest. Non-members may observe meetings, but may participate only with permission of the chairperson or task group leader.

### **7.2 Scheduling**

Working groups shall meet at least once per year. The TSC shall review the status of any working group that fails to meet at least once per year and may disband the group because of inactivity.

A working group may recess a meeting and split its work over several days. However, a working group may not recess its meeting for longer than four weeks. If the chairperson plans to recess a working group meeting and conduct business on more than one day, this plan shall be declared in the working group meeting announcement.

Working group leaders shall inform the TSC of any meetings as soon as said meetings are scheduled. The TSC shall notify all working group members, including observers, of every working group meeting and those task group meetings reported to it. The notification for working group meetings shall be given at least two weeks prior to each meeting. The notification shall state the location and time of the meeting.

If several meetings will occur at the same location during a given ten-day interval, the TSC may send one notification describing all the meetings to all affected working group members.

Any working group meeting held without proper notification shall be treated as a task group meeting. Any votes taken at such a meeting shall be subject to ratification at the next properly scheduled meeting or by a letter ballot circulated after the close of the meeting to all working group voting members.

### **7.3 Two-week rule**

Documents to be voted on should be distributed at least two weeks prior to a working group meeting. Any documents to be voted on other than draft meeting agendas postmarked or emailed later may be considered, but final action may only be taken in the absence of any objection by any voting member present. If there are any objections, actions on the documents shall be deferred until the next working group meeting.

## **7.4 Quorum**

### **7.4.1 Technical Standards Council**

A quorum for the TSC shall consist of more than 50% of the total voting body. If 50% or less of the total voting body is present at a meeting, business may be conducted, but all decisions must be decided by letter ballot or be subject to confirmation at the next meeting at which there is a quorum.

### **7.4.2 Working groups**

Quorum for working group meetings shall be one-third of the total voting body or three, whichever is the greater number. If a quorum is not present at a meeting, business may be conducted, but all decisions must be decided by letter ballot or be subject to confirmation at the next meeting at which there is a quorum.

### **7.4.3 Task groups**

All task group decisions are advisory to the working group. There is no quorum requirement for task groups.

## **7.5 Minutes**

Technical Standards Council and working group meetings shall have recorded minutes.

Meeting minutes shall contain:

- (1) Date(s), location(s), chair, secretary, time of opening and adjournment.
- (2) List of all attendees.
- (3) Record of any important announcements made during the meeting, such as the call for patents or the recitation of ESTA's anti-trust policy.
- (4) List of the voting body effective for the questions decided during the meeting. This list shall include the voting status and interest category of each member of the voting body.
- (5) Approval of previous meeting minutes.
- (6) Each motion seconded and not withdrawn, identifying the maker of the motion, the fact of a second, and the voting results.
- (7) Tasks assigned to members.
- (8) Future meeting schedule.

### **7.5.1 Technical Standards Council minutes**

A list of all TSC members, including name, organization (if any), voting status, and contact information shall be appended to TSC meeting minutes. This list shall reflect any changes of status made during the meeting.

The chairperson shall review all meeting minutes before they are distributed. In a timely fashion after the meeting, the draft minutes (clearly marked as draft) shall be distributed to TSC members for review and comment. At the next meeting, the minutes from the previous meeting shall be amended or approved by a Simplemajority vote. The approved minutes shall be distributed to TSC members and an electronic copy of the minutes shall be placed in a widely accessible, public, download site on the World Wide Web.

### **7.5.2 Working group minutes**

A list of all working group members, including name, organization (if any), voting status, interest category, and contact information shall be appended to every working group meeting minutes. This list shall reflect any changes of status made during the meeting.

The chairperson shall review all meeting minutes before they are distributed. In a timely fashion after the meeting, the draft minutes (clearly marked as draft) shall be distributed to working group members for review and comment. At the next meeting, the minutes from the previous meeting shall be amended or approved by a Simplemajority vote. The approved minutes shall be distributed to the working group

members and TSC members, and an electronic copy of the minutes shall be published on the World Wide Web without personal contact information.

## **8 Voting**

Each Technical Standards Council member shall have one vote, except for organizational members, who shall have one vote per organization.

For the working groups, each organization or individual member shall have one vote. Alternate members may vote when the principal member is absent or when the principal member delegates his or her vote to an alternate.

Motions for consensus voting body action shall be made by voting members of the consensus body.

### **8.1 Simplemajority votes**

Unless otherwise specified, issues being voted upon shall be approved when a Simplemajority of those voting choose in the affirmative.

### **8.2 Supermajority votes**

Supermajority votes shall be required for approval in the following cases:

- (1) accepting responses to review comments,
- (2) recommending ESTA standards for final acceptance and publication, and
- (3) other actions as specified in this policies and procedures document.

The above list is not exhaustive; Supermajority votes may be required in additional cases.

### **8.3 Methods of voting**

Votes may be taken as

- voice votes
- show-of-hands meeting votes
- roll call meeting votes
- letter ballot votes

Unless a specific method of voting is required, the choice of voting method shall be at the discretion of the chairperson.

#### **8.3.1 Voice votes and show-of-hands meeting votes**

Voice votes and show of hands meeting votes shall be indications of yes, no, or abstain.

#### **8.3.2 Roll call and letter ballot votes**

The final result of roll call and letter ballot voting shall be reported, by interest categories, to the working group.

##### **8.3.2.1 Voting positions with roll call and letter ballot votes**

For TSC and working group roll call and letter ballot votes, each member shall vote one of the following positions:

- (1) yes;
- (2) yes, with comment;
- (3) no, with reasons (the reasons for a negative vote shall be given and should include specific wording or actions that would resolve the objection); and
- (4) abstain, with reasons.

For a roll call vote, accompanying comments and reasons shall be entered in the meeting minutes. For a letter ballot vote, the accompanying comments and reasons shall be written and attached to the returned letter ballot. Any negative vote that should have accompanying reasons but that does not shall be considered a negative vote, but no attempt need be made to solicit the reasons for the negative vote, and no attempt need be made to resolve the issue to the satisfaction of the negative voter.

### **8.3.2.2 Letter ballots**

#### **8.3.2.2.1 Length of voting period**

The deadline for completing letter ballots shall be not less than 21 days from the date the letter ballot is sent, unless a shorter ballot period is specified for a particular situation elsewhere in these procedures. The ballot shall remain open until the deadline has passed or a ballot has been received for each voting member, whichever occurs first.

#### **8.3.2.2.2 Recirculation of letter ballots**

If any comments or objections that are relevant to the motion are received during a letter ballot, the comments and objections, attempts at resolution, and any substantive changes shall be delivered to the working group voting members, who then shall have, as determined by the working group chairperson in his or her sole and absolute discretion, either (a) 14 days or (b) until the date of the next working group meeting (but in no event less than 14 days), to consider the motion again in light of the comments or objections. Voting members who voted may revise or reaffirm their votes, and voting members who did not cast a vote on the initial ballot may cast a vote during this recirculation of the letter ballot.

### **8.4 Proxy votes**

Voting by proxy shall not be permitted. A written vote on an issue to be acted upon at the meeting may be submitted by an absent voting member provided it is received by the chairperson prior to that point on the agenda when the issue is brought to a vote.

Absentee voting shall not count toward meeting attendance.

## **9 Anti-trust policy**

ESTA adopts the ANSI Antitrust Policy as set forth in the *ANSI Essential Requirements: Due process requirements for American National Standards* by reference.

## **10 Metric policy**

Units of the International System of Units (SI), the modernized metric system, should be the primary units of measurement in documents developed by ESTA under these policies and procedures. When customary units, such as units in the inch/pound system, must be used in a document, the SI equivalent also will be given. Where standards reference no measurements, none shall be required.

## **11 Protected intellectual property**

### **11.1 Patent policy**

ESTA adopts the ANSI patent policy as set forth in the *ANSI Essential Requirements: Due process requirements for American National Standards* by reference.

### **11.2 Copyright policy**

ESTA intends to publish no standard that contains material for which another party holds the copyright, unless ESTA has been granted permission to use it.

Letter ballot voting forms shall include a statement that the person and organization submitting the letter ballot grant ESTA non-exclusive, royalty-free rights to the use of the material contained in their comments. Applications for working group membership shall include a statement that the person submitting the application agrees to grant ESTA non-exclusive, royalty-free rights to the use of the



material the person may develop for the working group, and shall not be considered a joint author of the work.

Working groups shall not accept as input to their work any copyrighted or company confidential material unless such material is accompanied by a letter on company letterhead waiving copyright and/or confidentiality for the purposes of ESTA standards making. Acceptance of copyrighted or confidential material by a working group shall require a Simplemajority working group vote. The letter waiving the copyright or confidentiality shall become part of the records documenting the development of a document.

## **12 Commercial Terms and Conditions Policy**

ESTA's Commercial Terms and Conditions Policy is to comply with ANSI's Commercial Terms and Conditions Policy.

## **13 Records retention policy**

Records shall be prepared and maintained to provide evidence of compliance with these procedures. Records shall be retained for one complete standards cycle, or until the standard is revised. Records concerning withdrawals of standards shall be retained for at least five years from the date of withdrawal or for a duration consistent with the audit schedule, whichever is longer. These records shall be available for review by request of the American National Standards Institute or any parties materially affected by the standards developed or under development.

## **14 Communications**

### **14.1 Internal communications**

If correspondence between working groups involves issues or decisions (i.e., non-routine matters) affecting other working groups, copies shall be sent to the chairs of all affected working groups and the Technical Standards Council.

### **14.2 External communication**

Because participation in the development of ESTA standards shall be open to anyone who expresses an interest, without regard to ESTA membership, subject only to the limitations specifically set forth in this document, ESTA shall maintain a comprehensive list of interested and affected professional societies, research or testing organizations, and other standards development organizations. These interested organizations shall be consulted regarding participation in ESTA standards-making activities. ESTA shall maintain a list of electronic and print media for press release distribution. ESTA shall make reasonable efforts to notify affected parties of any proposed standards that may affect them and to solicit their participation in the standards-making process. These efforts may include, without limitation (a) the distribution of press releases to affected parties and to periodicals likely to be read by those parties, (b) the publication of notices on the World Wide Web, (c) oral presentations to groups and assemblies that may have an interest, and (d) personal communication with individuals.

The TSC shall direct its staff to issue press releases or communiqués on ESTA Technical Standards matters. Working groups shall request that the TSC issue needed press releases on their behalf.

The TSC shall cause press releases to be issued to announce:

- (1) the formation of a new working group,
- (2) the start of work on a new draft standard,
- (3) the start of a public review period for a standard
- (4) the final adoption of a standard, and
- (5) the withdrawal of a standard.

The TSC may issue press releases and communiqués on other topics as it sees fit, consistent with the goals of the Technical Standards Program.

Press releases shall provide sufficient information to allow affected parties to protect their interests and to respond to the release in a manner that accomplishes the intent of the press release.

## **15 Standards-development process**

### **15.1 Initiation of a new standard (not a reaffirmation, revision, or withdrawal of an existing standard)**

Proposals for new standards may be initiated within an existing working group by members of the working group, or may be suggested by interested parties outside the working group. All proposals, regardless of the source, shall be submitted to the Technical Standards Council for consideration.

Proposals shall

- (1) explain how the new standard falls within the scope of the Technical Standards Program by listing the problem or problems in the industry that would be ameliorated or the opportunities and innovations that would be introduced by the proposed standard, and how the proposed standard would help;
- (2) identify the stakeholders (e.g., performers, audience members, rigging technicians, lighting equipment manufacturers, etc.) likely to be directly affected by the standard;
- (3) identify working group members or people who would join a working group who would be willing to undertake specific tasks related to the standard;
- (4) estimate the impact undertaking the proposal might have on the timely completion of other standards now being done by the working group to which the standard would be assigned;
- (5) identify any conflicts or overlaps between the proposed standard and existing standards or standards-making efforts by ESTA or other organizations;
- (6) indicate whether the proposed standard is intended to be a normative standard, a recommendation, or a guide;
- (7) indicate the intended audience for the standard; and
- (8) indicate if the intended audience is another standards organization or regulatory body (e.g., the National Fire Protection Association, the International Code Council, or municipal code compliance agencies) that would be expected to reference or to adopt the proposed ESTA standard.

If the proposed new standard is intended to be referenced or adopted by another standards organization or regulatory body, the proposer shall note if this other organization has a style guide and, if so, how the style guide can be obtained.

The Technical Standards Council shall decline a proposal for a new standard

- (1) if the Technical Standards Program does not have the resources to undertake it,
- (2) if it is outside the scope of the Technical Standards Program,
- (3) if it does not benefit the membership of ESTA, or
- (4) if accepting the proposal would unreasonably jeopardize the fiscal or legal well-being of the Technical Standards Program or ESTA.

The Technical Standards Council may decline a proposal if it feels that the argument for undertaking the project is inadequately developed or for any other reason the TSC deems is in the best interest of the program.

The approval requirement for accepting a standard proposal by the TSC shall be a Supermajority vote in favor. In all cases, the person or parties making the proposal shall be informed of the disposition of the proposal in writing within 90 days of its receipt by the TSC chairperson. The decision by the Technical Standards Council may be appealed.

If the Technical Standards Council elects to accept a project, the TSC shall assign the project to an existing working group or shall form a new working group for the standard. The working group to which the standard is assigned shall vote to undertake the project by roll call ballot, letter ballot, or show-of-hands, with the approval requirement being a Supermajority. If the project is refused, the TSC and the person or parties making the proposal shall be informed of this in writing and shall be supplied with reasons for the refusal.

A Project Initiation Notification System (PINS) form shall be filed with ANSI in a timely manner after the Technical Standards Council and assigned working group both approve of the project.

### **15.2 Announcement of a standards-drafting project**

Notification of standards activity shall be announced in suitable media as appropriate to demonstrate the opportunity for participation by all directly and materially affected persons. The title of the project shall clearly indicate whether the standard is to be a normative standard, a recommendation, or a guide.

At the initiation of a project to develop or to revise an American National Standard, notification shall be transmitted to ANSI using the Project Initiation Notification System (PINS) form, or its equivalent, for announcement in *Standards Action*. A statement shall be submitted and published as part of the PINS announcement that shall include:

- (1) an explanation of the need for the standard; and
- (2) identification of the stakeholders (e.g., performers, audience members, rigging technicians, lighting equipment manufacturers, etc.) likely to be directly affected by the standard.

If written comments are received within 30 days from the publication date of a PINS announcement in *Standards Action*, the Technical Standards Council shall respond to the comments within 30 days of receipt thereof. If the comments received assert that a proposed standard duplicates or conflicts with an existing American National Standard (ANS), or with a candidate ANS that has been announced previously in *Standards Action*, the Technical Standards Council shall make a good faith effort to organize a deliberation of representatives, to conduct a PINS Deliberation within 90-days of the comment period deadline. This PINS Deliberation shall be conducted in compliance with section 2.5 of the ANSI *Essential Requirements*.

### **15.3 Development of a draft document**

The working group shall bear the responsibility for drafting the standard. The draft standard shall be written to address the issues identified in the original proposal.

The working group may divide the work related to a standard's development into tasks with deadlines for completion, and delegate these tasks to a task group or task groups rather than trying to write an entire document with all working group members participating.

#### **15.3.1 Consultation with outside information sources**

The working group should seek input from relevant sources when developing a standard. Persons outside the working group who wish to contribute text to a standard being developed by a working group shall join the working group as an observer or voting member.

The working group shall track other standards-making efforts and determine their impact on the ESTA standards being developed.

### **15.3.2 Style**

Documents shall be written in a style suitable for their intended audience. The recommendations of ESTA's *A Brief Manual of Style for Drafting Standards and Recommended Practices* should be followed.

If a standard has been identified as one that is intended to be referenced by another standard or code or for adoption into law, the standard shall conform to the guidelines for those documents.

### **15.4 First public review**

All draft ESTA standards shall have at least one public review.

#### **15.4.1 Working Group vote for first public review**

The motion for a first public review shall be offered by a voting member of the working group at a working group meeting. The motion may be decided by any voting method. The criterion for accepting the motion shall be a Simplemajority.

#### **15.4.2 TSC vote for first public review**

The TSC must approve the working group's motion for first public review of a draft standard by a Simplemajority. The vote in the TSC may be conducted by any method. Only the first public review requires TSC approval.

If the working group's motion to offer a draft standard for public review fails in the Technical Standards Council, the TSC shall provide written reasons for the rejection of the motion to the working group. Any comments or objections offered by the members of the TSC during the vote, even if the motion is accepted, shall be reported to the working group.

#### **15.4.3 Conduct of first public review**

The public review shall be announced widely to the public and to interested parties. The public review of draft standards that are intended to become American National Standards shall be announced to the American National Standards Institute for listing in *Standards Action*.

The draft standard and all materials published by ESTA needed to review it shall be distributed at no cost to any interested party. The draft standard shall be clearly labeled "draft" on every page that contains normative information. The review materials shall include a response form on which the commenter is asked to offer an opinion, suggestions and comments on the public review draft document. It shall be clear that the reviewer is not being asked to vote on the draft standard, nor is the response form a ballot.

If possible, the public review materials shall be distributed in electronic format, and an Internet website URL shall be published at which immediate access to the materials is obtainable, or an email address shall be published at which a request for materials will be fulfilled within one day. If distribution in electronic form is not possible, distribution in hard-copy by mail or other similar method shall be acceptable.

The deadline for the return of the response form shall not be earlier than 45 days after the first public announcement of the public review if the review materials are made available in electronic format and access to them is immediate or within one day by accessing an Internet website or placing an email request. The deadline for the return of the response form shall be at least 60 days after the first public review announcement if the review materials are available only in hard-copy format, or if the review materials are in electronic format but cannot be delivered within one day.

The public review responses with comments and reasons received during the public review shall be collated and delivered to the working group by the secretary in a timely fashion.

#### **15.4.4 Resolution of first public review objections**

The working group shall review all responses received during the first public review of the draft standard. The working group may consider any comments received subsequent to the closing of the public review and comment period, or shall consider them at the next review. An effort to resolve all expressed

objections shall be made, and each objector shall be advised in writing (including electronic communications) of the disposition of the objection and the reasons for this disposition. If resolution is not achieved, the objector shall be informed in writing that an appeals process exists within procedures used by the standards developer.

Termination of a standards drafting project may be the response by the working group to objections received during a public review.

The working group must approve the comment resolutions by a Supermajority vote, which may be taken by a roll call vote, letter ballot, or a show-of-hands.

### **15.5 Second and subsequent public reviews**

If substantive changes are made to the normative sections of a draft standards document after a public review, another public review shall be held.

#### **15.5.1 Voting for subsequent public reviews**

The motion for a subsequent public review shall be approved by a Simplemajority of the working group by a roll call vote, letter ballot, or a show of hands.

#### **15.5.2 Conduct of subsequent public reviews**

Subsequent public reviews shall be conducted in the same manner as the first public review., with the exception that TSC approval is not required for public reviews subsequent to the first public review.

#### **15.5.3 Resolution of subsequent public review objections**

Objections raised in a subsequent public review shall be handled in the same manner as objections that are raised in a first public review.

### **15.6 Abandonment of a standards-drafting project**

A standards-drafting project may be abandoned at any time. Reasons may include, but are not limited to:

- (1) failure to make progress developing consensus with an important part of the entertainment community that would be expected to use the standard or be affected by it;
- (2) lack of resources or expertise within the working group to develop the standards document;
- (3) discovery of an existing standard or another standards-drafting project with which the proposed standard would conflict; and
- (4) discovery of protected intellectual property that cannot be used by any one at no charge or for a reasonable fee, and that is necessary for the implementation of the proposed standard.

A project may be abandoned by a working group with a Supermajority vote taken by a roll call at a meeting or by letter ballot. The final result of the voting shall be reported, by interest categories, to the working group.

The Technical Standards Council may recommend that a working group abandon a project. The motion to recommend abandonment shall be determined by a Supermajority vote conducted by a roll call vote or show-of-hands at a meeting, or by letter ballot. The TSC shall supply reasons for recommending abandonment to the working group. If directed to abandon a project by the TSC, a working group may decline to do so by a Supermajority vote, and shall provide reasons for the refusal to the TSC. The TSC shall reject the refusal and declare the project abandoned if the TSC believes that continuation of the project would unreasonably jeopardize the fiscal or legal well-being of the Technical Standards Program or ESTA.

If an abandoned project was a project to draft an American National Standard, the American National Standards Institute shall be informed of the abandonment of the project.

## **15.7 Final approval of a standards document**

### **15.7.1 Approval by the working group**

The working group shall vote by letter ballot on the motion to approve a document as a standard. The approval requirement shall be a Supermajority. The motion for approval shall be made at a working group meeting.

The final vote may be concurrent with a final public review. If it is concurrent with a final public review, any comments from the public review shall be recirculated to the working group in a manner similar to the recirculation of working group vote comments and reasons as described in 8.3.2.2.2. Substantive changes, unresolved objections, and attempts at resolution will be provided to the consensus body to afford them the opportunity to respond, reaffirm, or change their votes. An effort shall be made to resolve any objections expressed during this concurrent public review, as described in 15.4.4.

The final result of the voting shall be reported, by interest categories, to the working group.

### **15.7.2 Approval by the Technical Standards Council**

When a draft standard is forwarded to the TSC for final approval, the TSC shall evaluate the draft standard and the last set of comment resolutions. The TSC shall consider whether any of the changes made to address the comments offered during the last review or any other changes made after the review could reasonably be considered substantive and therefore would require another public review. The TSC may vote on the motion for approval by roll call or letter ballot. The approval requirement shall be a Supermajority.

If the TSC rejects a motion to approve a draft standard, reasons shall be provided to the working group.

### **15.7.3 Approval by the Executive Committee**

When the TSC forwards a draft standard to the Executive Committee for final acceptance, letters shall be sent to any organization or individual who voted negatively on the draft standard's acceptance and did not have their negative comments resolved. The recipients of these letters shall be given 30 days to appeal the final approval in writing to the Chair of the Technical Standards Council.

When a draft standard is forwarded to the Executive Committee for final approval, the approval requirement shall be a Supermajority. The Committee may use any voting method it wishes, as long as the method allows the Supermajority approval to be verified and documented.

If the Executive Committee rejects a motion to approve a draft standard, reasons shall be provided to the TSC and working group. The Executive Committee shall not edit or revise ESTA standards sent to it.

### **15.7.4 Approval by the ANSI Board of Standards Review**

If the standards document is intended to become an American National Standard, the document and all relevant material required by ANSI for approval shall be sent to the ANSI Board of Standards Review.

## **15.8 Publication of a standards document**

ESTA shall publish each fully approved standard that it develops within six months after the date on which it is approved in final form. ESTA-published standards shall be made available for sale and purchase at a price to be established by ESTA.

The publication of a standard by ESTA shall be announced to the public and to all interested parties as widely as possible.

## **16 Reaffirmation, revision, or withdrawal of a standards document**

The TSC shall ensure that ESTA standards are reaffirmed, revised, or withdrawn no more than five years after their final acceptance by the TSC. The TSC shall refer reaffirmation, revision, or withdrawal questions to the appropriate working group for action.

Any person or organization may ask the TSC to withdraw an ESTA standard by sending a written request to that effect to the TSC chairperson. The TSC shall respond in writing within 90 days to any written request for withdrawal.

### **16.1 Reaffirmation and withdrawal**

Motions to reaffirm or to withdraw a standard shall be initiated in the working group responsible for that standard. The motion to reaffirm or to withdraw a standard shall initiate a public review without a further vote authorizing that public review. The letter ballot to decide the motion may be conducted concurrently with the public review. If it is conducted concurrently, any comments or objections from the public received during the public review shall be recirculated to the working group, and an additional time shall be given for the working group voters to consider the public review comments, along with any comments or objections offered by working group voters in support of their votes. See clause 8.3.2.2.2 for information on recirculation ballots. The approval requirement shall be a Supermajority.

The public review of a standard that is proposed to be reaffirmed or withdrawn shall be announced to the public and to all interested parties as widely as possible. Proposals to reaffirm or withdraw American National Standards shall be transmitted to ANSI for listing in *Standards Action* for comment.

Attempts shall be made to resolve promptly any objections received during the public review and working group balloting. Resolving the objections may require making substantive changes to normative sections of the document. In this case, the project becomes one of revising an existing standard.

A successful working group motion to reaffirm or withdraw a standard shall be forwarded to the TSC for TSC approval. The approval requirement shall be a Supermajority. The TSC vote may be conducted in any manner that documents that the Supermajority approval requirement has been met.

The TSC approval of a working group's motion to reaffirm or withdraw a standard shall be forwarded to the Executive Committee for approval. The approval requirement shall be a Supermajority. The Executive Committee vote may be conducted in any manner that documents that the Supermajority approval requirement has been met.

The reaffirmation or withdrawal of a ESTA standard shall be announced to the public and to all interested parties as widely as possible. In the case of a withdrawal, the reasons for the withdrawal shall also be publicized.

16.1.1 The Technical Standards Council may withdraw any standard, without further vote or approval by the consensus body, that:

- has been found to be in breach of the Commercial Terms Policy;
- has been found to be in breach of the Protected Intellectual Property Policy; or
- has been found to unreasonably jeopardize the fiscal or legal well-being of the Technical Standards Program or ESTA.

### **16.2 Revision**

Motions to revise an existing standard shall be initiated in the working group responsible for the standard. The approval requirement for the motion to start a revision project shall be a Supermajority. The vote to approve the revision project motion may be conducted by any method that can document that the required Supermajority approval has been achieved.

Once initiated, by a working group, a revision project shall be handled as though the standard were a new project in development, starting in the step described in 15.2, Announcement of a standards-drafting

project, and following the subsequent steps, with the exception that the existing standard may serve as the first draft. All the steps and approvals described in sections 15.2 through 15.8 shall apply.

### **16.3 Legacy documents**

Documents published before the adoption of this version of the Policies and Procedures for the Development and Approval of Technical Standards shall be reviewed within five years of their publication in light of the current procedures. The decision to revise or reaffirm them shall be made in light of this review. Documents in process but not published shall be evaluated in light of these current procedures and brought into conformance with them.

## **17 Appeals**

Persons who have directly and materially affected interests and who have been or may be adversely affected by a procedural action, inaction, or decision (including, without limitation, a decision not to act) of a working group, the Technical Standards Council, the Entertainment Services and Technology Association Executive Committee, or the ESTA Board of Directors regarding a technical standards matter, shall have the right to appeal any such action or decision, regardless of whether they participated in debate preceding that action. In addition, conflicts between ESTA standards and existing industry standards, or the lack of balanced interest representation on a working group may each form the basis for an appeal of such action or decision.

### **17.1 Complaint**

The appellant shall file a written complaint with the Technical Standards Council within 30 days after the date of notification of action or at any time with respect to a failure to act. The complaint shall state the nature of the objection(s) including any adverse effects, the clause(s) of these procedures that is or are at issue, actions 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. The appeal shall be accompanied by a \$500 filing fee payable to ESTA. The filing fee shall be refunded if the complaint is resolved without convening a hearing with an appeals panel. The filing fee may be waived by applying to the TSC for a waiver and offering a credible explanation that the fee would constitute an unreasonable hardship.

### **17.2 Response**

Within 30 days after the receipt of the complaint, the TSC shall respond in writing to the appellant, specifically addressing each allegation of fact in the complaint to the extent of the respondent's knowledge.

### **17.3 Hearing**

If the appellant and the respondent are unable to resolve the written complaint informally in a manner consistent with these procedures, the applicant shall inform the TSC in writing within 15 days notifying the TSC that they intend to continue the appeal process. If no notice is filed within this time, the TSC shall consider the issue resolved.

If the appeal is to move forward, the TSC shall schedule a hearing with an appeals panel on a date agreeable to all participants, giving at least 10 working days notice.

### **17.4 Appeals panel**

The appeals panel shall consist of three individuals 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. At least two members shall be acceptable to the appellant and at least two shall be acceptable to the respondent. If the parties to the appeal cannot agree on an appeals panel within six weeks, the matter shall be referred to the Executive Committee, which shall appoint the members of the appeals panel.



### **17.5 Conduct of the hearing**

The appellant has the burden of demonstrating adverse effects or improper actions, and the efficacy of the requested remedial action. The respondent has the burden of demonstrating that the working group and TSC 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. *Robert's Rules of Order* (latest edition) shall apply to questions of parliamentary procedure for the hearing not covered herein.

### **17.6 Decision**

The appeals panel shall render its decision in writing to the appellant and all concerned parties within 30 days after the conclusion of the hearing, stating findings of fact and conclusions, with the reasons for the conclusions, based on a preponderance of the evidence presented to the appeals panel. Consideration shall be given to the following positions, among others, in formulating the decision:

- (1) finding for the appellant, remanding the action to the working group or to the Technical Standards Council with a specific statement of the issues and facts in regard to which fair and equitable action was not taken;
- (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; or
- (3) finding that new, substantive evidence has been introduced, and remanding the entire action to the working group or to the Technical Standards Council for appropriate reconsideration.

### **17.7 Further appeal**

If the appeal is in regard to an American National Standard, and if the appellant gives notice that further appeal to the American National Standards Institute is intended, a full record of the complaint, response, hearing, and decision shall be submitted by the TSC to ANSI. ANSI does not provide a forum for appeals in regard to documents not approved as American National Standards.

## **18 Requests for interpretation of standards**

Any person or organization may request an interpretation of an ESTA standard. Requests for interpretation shall be made in writing. All requests for interpretation shall be forwarded to the TSC chairperson.

If an appropriate working group exists, the TSC shall forward the request for interpretation to the working group. Otherwise, the TSC itself shall respond to the request for interpretation or may form a working group to address the request for interpretation. If a working group prepares the response to a request for interpretation, the response shall be forwarded to the TSC for approval. The TSC shall approve a response to a request for interpretation by a Simplemajority vote.

The TSC shall respond in writing within 90 days to any written request for interpretation. Both the request and the response shall be archived for the public record.

Revisions to a standard resulting from requests for interpretations shall be processed in accordance with these procedures.

## **19 Parliamentary procedures**

All matters of parliamentary procedure not covered in these procedures shall be in accord with the most recent edition of *Robert's Rules of Order*.

## **20 Revisions to these Policies & Procedures**

Any person or organization may request a revision to these Policies & Procedures. Requests for revision shall be made in writing. All requests for revision shall be forwarded to the TSC chairperson. The Technical Standards Council shall vote to accept the request with a Supermajority being required for

acceptance. If a request for a revision is accepted, the Technical Standards Council shall work with the party making the request to revise this document in an attempt to address the party's concerns.

Final approval of any revisions to these Policies & Procedures shall require a Supermajority vote by the Technical Standards Council. The revised procedures shall be submitted to the American National Standards Institute for approval.

No changes to the actual operating procedures shall be made until the changes to this document have been approved by the TSC and ANSI.