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NSF International Standards development and maintenance policies



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Contents

1	General1	
1.1	Definitions	1
2	Openness	1
3	Committee structure	2
3.1	Committees	2
3.2	Secretariat.....	2
3.3	Officers	3
3.4	Members	4
4	Membership	4
4.1	Joint committees	4
5	Notification of standards development	6
5.1	Project Initiation.....	6
5.2	Continuous maintenance	7
5.3	Discontinuance of a proposal.....	7
5.4	ANSI Board of Standards Review (BSR) Notifications	7
6	Communications	8
6.1	Formal internal communication.....	8
6.2	External communication.....	8
6.3	Request of interpretation of standards.....	8
6.4	Issue Paper	8
7	Meetings	8
7.1	Joint committee meetings	8
7.2	Task group meetings.....	8
7.3	Quorum	9
7.4	Meeting notice.....	9
7.5	Meeting attendance.....	9
7.6	Open meetings.....	9
7.7	Closed meetings	9
7.8	Meeting summaries.....	9
7.9	Document distribution	9
8	Balloting	9
8.1	Joint committee	9
8.2	Council of Public Health Consultants.....	11
9	Public review of proposed standards	13
10	Appeals process	13
11	Draft standards for trial use	14
11.1	Proposal of draft standards for trial use	14
11.2	Publication of draft standards for trial use	14
12	National adoption of ISO or IEC standards as American National Standards	15
13	Patents in NSF Standards	15
13.1	Statement from patent holder.....	15
13.2	Record of statement	15

13.3	Notice.....	15
13.4	Responsibility for identifying patents	15
14	Commercial terms and conditions	16
15	Interpretations.....	16
16	Committee expenses and contracts	16
16.1	Joint committee expenses	16
16.2	Contracts	17
17	Editorial revisions.....	17
18	Issuance	17
19	Periodic review	17
20	Recordkeeping.....	17
20.1	Periodic maintenance	17
20.2	Continuous maintenance.....	17
21	Disclaimers	18
22	Standards publication style.....	18
23	Legal representation	18
24	Discontinuation of proposed standard	18

NSF International

Standards development and Maintenance policies

1 General

These Policies are used in the development of NSF voluntary consensus American National Standards. These Policies meet the requirements of due process as defined in the American National Standards Institute (ANSI) *Essential Requirements: Due Process Requirements for American National Standards*.¹ In addition, these Policies are consistent with the OMB A-119 *Federal Participation in the Development and Use of Voluntary Standards*.² NSF Standards are intended to be consistent with government regulations and codes, when they exist. These Policies are written in a manner to incorporate all procedural requirements set forth in the ANSI process. It is understood that when an NSF Standard is developed with the intent for the Standard to not be an American National Standard, those procedures specifically related to the ANSI process may not be applicable.

1.1 Definitions

Consensus: Substantial agreement by directly and materially affected interests that signify the concurrence of more than a simple majority but not necessarily unanimity. It requires that all views and objections be considered and that an effort be made toward their resolutions.

Council of Public Health Consultants (CPHC): A group that provides guidance to NSF in the planning, design and implementation of programs to protect public health and the environment and improve quality of life. The Council also reviews and ballots all new standards and revisions developed by joint committees before final adoption as American National Standards.

Joint Committee (JC): The consensus body responsible for development and revision of any NSF/ANSI Standard.

Task Group (TG): A group appointed by the JC Chair to address a specific issue or standard. Task Groups may be formed on an *ad hoc* or standing basis.

2 Openness

Participation in the NSF standards process shall be open to all persons who are directly and materially affected by the standard. These Policies are written to ensure that there are no undue financial barriers to participation, and that voting participation on a consensus body is not conditional upon membership in any organization, nor unreasonably restricted on the basis of technical qualifications or other such requirements. Participation is available through voting membership on JCs, membership on TGs, by meeting participation, or by public review and comment.

¹ American National Standards Institute, 25 West 43rd Street, New York, NY 10036

² Office of Management and Budget, U. S. Department of Commerce, Washington, DC, 20230. Federal Register, Vol. 46. No. 3, January 6, 1981

Timely and adequate notice of any action to create, revise, reaffirm, or withdraw a standard, and of the establishment of a new consensus body, shall be provided to all known directly and materially affected interests. Notice should include a clear and meaningful description of the purpose of the proposed activity and shall identify a readily available source for further information. In addition, the name, affiliation,³ and interest category of each member of the consensus body shall be made available to interested parties upon request.

3 Committee structure

3.1 Committees

3.1.1 Joint committees

The JC is the consensus body and shall be responsible for:

- proposing NSF Standards consistent with NSF’s mission;
- voting on approval of proposed NSF Standards;
- ensuring that public health, safety, and environmental issues are properly addressed in standards;
- maintaining standards in accordance with these Policies;
- responding to requests for interpretations of NSF Standards within its scope of activity;
- proposing additional policies and procedures to the Secretariat appropriate to its scope of activity as permitted within these Policies; and
- other matters requiring consensus body action as provided in these Policies.

3.1.2 Task groups

If deemed appropriate by JC members, TGs may be formed to address a specific issue. TGs are responsible for providing recommendations to the JC responsible for the standard(s) affected by the recommendation. TGs are not governed by the rules of balance or consensus as defined in these Policies.

3.2 Secretariat

NSF shall be the Secretariat and shall be responsible for:

- overseeing compliance with these Policies;
- maintaining a roster of JC membership and maintaining a list of standards assigned to each JC;
- maintaining a roster of TG membership;
- providing administrative services to the JC Chairs to assist them in performing their duties;
- submitting documentation to ANSI, when required;
- documenting actions and decisions made by the JC;

³ “Affiliation” refers to the entity that the consensus body member represents (which may or may not be that person’s employer). If the consensus body member is serving in an individual capacity, then the name of the individual, that person’s employer, sponsor, and interest category ~~should~~ **shall** be **made** available. Contact information is not required.

- distributing documents relevant to the business of the JC;
- participating in appeal actions, as defined in 10; and
- performing other functions as required by these Policies.

3.3 Officers

3.3.1 Joint committee

3.3.1.1 JC Chair

The JC Chair shall be responsible for:

- managing the JC and JC meetings in a manner that is efficient and in compliance with these Policies;
- completing JC responsibilities in a timely manner, including reviewing drafts for ballot;
- providing a liaison role between JC and CPHC;
- adjudicating all views and objections encountered in the balloting and public review processes, in collaboration with the Secretariat;
- participating in appeal actions, as defined in 10; and
- performing other functions as required by these Policies or by request of the JC.

The JC Chair shall be a nonvoting member of the JC except where necessary to determine a decisive vote.

3.3.1.2 JC Vice Chair

The JC Vice Chair candidate shall be a current JC member and shall be voted into office by a simple majority of the JC members (with the JC Chair casting the deciding vote in the event of a tie). The JC Vice Chair shall assume the responsibilities of the JC Chair in the Chair's absence.

3.3.2 Task groups

TGs shall have a Chair and may have a Vice Chair and/or Secretariat.

3.3.2.1 TG Chair

The TG Chair shall be selected by the JC Chair. The TG Chair shall assume responsibilities for the following:

- managing the TG and its meetings in a manner that is efficient and in compliance with these Policies;
- completing TG responsibilities in a timely manner, including reviewing draft(s);
- providing a liaison role between the JC and their TG; and
- performing other functions as required by these Policies or by request of the TG members.

3.3.2.2 TG Vice Chair

TG Chairs shall oversee the selection of Vice Chairs and Secretariat for their respective groups. The TG Vice Chair shall assume the responsibilities of the TG Chair in the Chair's absence.

3.3.2.3 TG Secretariat

The Secretariat shall be responsible for:

- documenting all actions and decisions made by the TG;
- distributing documents relevant to the business of the TG; and
- submitting a current membership roster to the Secretariat of the JC.

3.4 Members

Members shall be responsible for:

- participating actively at meetings and reviewing documents;
- returning ballots within prescribed deadlines;
- advising the appropriate Chair and Secretariat when a change in employment may affect the member's interest category;
- providing technical expertise;
- demonstrating active participation as an issue proponent, TG Chair, or TG member, e. g., attendance at a meeting and/or an issue sent to ballot;
- abiding by the *NSF Antitrust Guide*; and
- conducting themselves in a manner that is courteous, respectful, and consistent with the principles of the consensus process.

4 Membership

4.1 Joint committees

4.1.1 Application

Any directly and materially affected person may apply for voting consensus body membership by completing an application and submitting the application to the Secretariat. The Secretariat shall forward membership applications to the responsible Chair, who determines eligibility. Participation shall not be conditional upon membership in any organization or unreasonably restricted on the basis of technical qualifications or other such requirements.

Applicants shall define their direct and material interests in the JC's activities, their qualifications, and their willingness to participate actively, and shall indicate their interest category. An organization or agency shall only have one member on a JC unless one of the following applies.

- a) If a company produces an end-product and a component used in the end-product, the company is both a manufacturer and a user. It can therefore have two qualified members on the JC.
- b) If a parent company has two or more smaller companies that manufacture brands that compete against each other in the marketplace, it may have two qualified members on the JC.

- c) If a company has both a domestic and a foreign affiliate, it may have two qualified members on the JC.

All memberships are based on the experience and expertise of the individuals. They are not "company" memberships and therefore are not transferable.

Applicants not accepted may have their application maintained on file by the Secretariat for consideration by the responsible Chair when openings occur.

No application is required for Task Group membership.

4.1.2 Selection/recommendation

In reviewing the application, the Chair of the applicable committee or group shall consider the following:

- need for active participation by each interest category;
- potential of dominance by a single interest category;
- extent of organization or company support on behalf of the applicant; and
- JC size.

The JC shall have a balance of interests. Members from diverse interest categories shall be sought with the objective of balance (see 4.1.3). The process shall not be dominated by any single interest category, individual, or organization. "Dominance" shall mean 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.

The requirement for balance shall not apply to TG membership; however, each TG should have at least one member from each interest category.

When Chairs become aware of areas of needed technical expertise, they may recruit new members to serve on the JC or TG.

4.1.2.1 Membership

4.1.2.1.1 Each JC member is requested to serve a minimum three-year term. Minimum terms of service shall not be required for TG members. When a JC or TG member completes a term, resigns, or is otherwise unable to serve, all applications on file for the applicable interest category shall be considered for filling the vacant applicable position.

4.1.2.1.2 The recommended maximum number of members on a JC is 34. JC size may be increased by the JC Chair if there is a clear need for additional representation. If the JC size is increased, balance shall be maintained.

4.1.2.1.3 The recommended maximum number of members on a TG is 15. The JC Chair may authorize membership beyond 15 if there is a clear need for specific expertise.

4.1.3 Membership interest categories

JC and TG membership shall include persons directly and materially affected by the standard(s) being developed. "Directly and materially affected" may be defined by the membership interest categories below.

- User/Consumer: A member who purchases, uses, or specifies materials, products, systems, or services covered in the scope of the standard. User/consumer trade association representatives, third-party product certifiers / testing laboratories, and standards developers are included in this membership classification.

- Industry: A member who produces, assembles, distributes, or sells materials, products, systems, or services covered in the scope of the standard. Trade association representatives are included in this membership classification.
- Public Health and Safety/Regulatory: A member who is from a public agency (local, regional, state, federal, or international) or represents a professional public/environmental health/safety organization, academia, or a model code organization.
- Non-voting Liaison: A member who has expertise in areas of interest to the JC or TG. The member receives all JC materials and may perform duties expected of JC members with the exception of balloting and making motions.

The interest categories appropriate to the development of consensus in any given standards activity are a function of the nature of the standards being developed. Joint committees may determine that additional or different interest categories are appropriate for the JC's scope of activity. Changes in interest category designations shall be approved by a majority of the JC and documented with the Secretariat.

4.1.4 Review of JC membership

Meeting attendance, voting records, and participation as an issue proponent, TG Chair, or TG member shall be reviewed by the JC Chair at least on an annual basis.

A JC member may be terminated for the following: if he/she has completed a three-year term or is considered inactive, i. e., returns less than 75% of ballots; and/or misses two consecutive meetings (proxies are excluded from this count); and/or shows a lack of participation as an issue proponent or TG Chair or TG member. A JC member whose change in employment affects his/her voting interest may also be terminated. TG memberships may be terminated at the discretion of the TG Chair and JC Chair.

4.1.5 Observers and experts

Observers are permitted at JC and TG meetings at the discretion of the appropriate Chair. Individual experts may be invited to address the JC or TG on technical matters related to standards development.

4.1.6 Membership roster

A current membership roster for each JC and TG, containing all pertinent member contact information and affiliations, shall be maintained by the Secretariat of that committee and supplied to NSF staff. The membership roster shall be available to members upon request. Member names and affiliations are available to the general public upon request.

4.1.7 Proxies

A JC or TG member may be represented by a proxy at a meeting if unable to attend or participate. A written statement from the member not in attendance authorizing a designated proxy shall be provided to the Chair prior to the meeting. A proxy may perform duties expected of JC members with the exception of balloting.

5 Notification of standards development

5.1 Project Initiation

5.1.1 At the initiation of a project to develop, reaffirm, or revise an American National Standard, notification shall be transmitted to ANSI using the PINS form except for those projects falling under 5.2 of these Policies.

Written comments received within 30 days of the PINS announcements shall be addressed according to clause 2.4 of ANSI's Essential Requirements: Due Process Requirements for American National Standards.

5.1.2 Directly and materially affected persons may request a revision to a standard at any time. The party shall complete an Issue Paper (see 6.4), which shall be sent to the appropriate JC Chair. The JC Chair shall decide to forward the issue to the JC for immediate review or hold it until the next JC meeting.

5.1.3 A directly and materially affected interest may request the development of a new standard or draft standard for trial use to NSF, if the scope of the new standard is not covered by an existing JC.

5.2 Continuous maintenance

5.2.1 Continuous maintenance schedule

Standards may be placed on a continuous maintenance schedule. This means that any part of the standard is open for comment or proposals at any time and by anyone, within the constraints of any established revision cycle. A PINS is not required for revisions of an American National Standard that is maintained under continuous maintenance if (1) it is registered as such on the ANSI website, (2) a notice is in the standard that the standard is always open for comment and how to submit comments, and (3) information is on NSF's website indicating that the standard is under continuous maintenance and how to submit comments. Any properly submitted proposals shall be considered and acted upon as described in accordance with the established revision cycle for the involved standard.

5.2.2 Revision of continuous maintenance

Standards on continuous maintenance will be published on an annual basis if a revision has passed the JC, TC, and CPHC. If revisions occur more frequently than annually, an addendum will be published on an as-needed basis. In the event that no revisions are issued for a period of four years for a Standard on continuous maintenance, action to reaffirm or withdraw the Standard shall be taken.

5.3 Discontinuance of a proposal

If NSF determines during the consensus process or public review that a proposal presents an overriding public health, safety, or legal risk, NSF shall cease processing the proposal and promptly notify the applicable consensus body. If the proposal has been available for public review, NSF shall post a notice in ANSI *Standards Action*⁴ that it is discontinuing the proposal and readers should contact NSF for more information. A request received within 60 days of the notice shall be answered with reasons for the discontinuing the proposal. The decision to discontinue a proposal may be appealed to the ANSI Executive Standards Council, but is not appealable to NSF, based on procedural noncompliance. See also 24.

5.4 ANSI Board of Standards Review (BSR) Notifications

5.4.1 Board of Standards Review (BSR-108)

Proposals for new American National Standards (ANS) and proposals to revise, reaffirm, or withdraw approval of an existing ANS shall be submitted to ANSI using the Board of Standards Review (BSR)-108 form for listing in ANSI *Standards Action* in order to provide an opportunity for public comment.

5.4.2 Board of Standards Review (BSR-109)

⁴ <http://www.ansi.org>

A BSR-109 (Formal Submittal for Approval/Withdrawal as ANS) notifies ANSI that a standard has been revised and is/will be ready for publication, or has been withdrawn. This information is published in ANSI *Standards Action*.

6 Communications

Correspondence from NSF JC and TC Chairs shall be on NSF International letterhead.

6.1 Formal internal communication

Correspondence between members of JCs or TGs involving issues or decisions affecting other committees shall be sent to all affected Chairs, the Secretariat, and the consensus body officers.

6.2 External communication

All inquiries relating to a standard/issue and all replies to inquiries shall be made through the affected Chair. Members of affected committees shall be informed of the decision of that Chair. Any JC or TG member may introduce an issue of concern by completing an Issue Paper (see also 6.4), found on NSF's website at <http://www.nsf.org>. The issue paper shall be forwarded to the appropriate Chair for review/action plan.

6.3 Request of interpretation of standards

Written inquiries requesting interpretation of NSF/ANSI Standards shall be responded to in accordance with the policy of NSF (see 15). Revisions to the standard resulting from requests for interpretations shall be processed in accordance with these Policies.

6.4 Issue Paper

Each proposal shall be submitted to the Secretariat in electronic format using the Issue Paper Form found on NSF's website at, and shall include the following:

- name of submitter and affiliation (i. e., organization or company);
- name of standard and section to which the issue is directed;
- proposed text, including the wording to be added, revised, or deleted;
- reason for proposal revision; and
- signature of submitter.

7 Meetings

The term “meeting” covers all standards meetings and includes teleconferences, videoconferencing, and other forms of electronic group interaction.

7.1 Joint committee meetings

JC meetings shall be held as decided by the consensus body, the responsible Chair, the Secretariat, or petition of five or more members. The business of JC meetings shall be to consider draft standards or new proposals including Issue Papers, make assignments to TGs, receive reports of work from TGs, resolve differences among or within TGs, or to consider views and objections from any source.

7.2 Task group meetings

TG meetings may be held as decided upon by the members or the responsible Chair.

7.3 Quorum

A majority of the members of the JC or TG shall constitute a quorum for conducting business at a meeting. If a quorum is not present, actions shall only be taken subject to subsequent confirmation by letter ballot or vote at a future meeting/date.

7.4 Meeting notice

JC and TG members shall receive announcements of meetings and meeting agendas. The announcement 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 any others expressing interest.

7.5 Meeting attendance

Meeting attendance by members is required. Attendance may include participation via conference call for face-to-face meetings. Failure to attend meetings may result in termination of membership.

7.6 Open meetings

Non-member observers may attend a meeting provided, for logistical reasons, that they notify the Secretariat in advance of their intention to do so.

A JC Chair may close a meeting to observers once a certain number of attendees has been achieved (predetermined by space and/or logistical considerations.)

7.7 Closed meetings

The JC Chair may choose to enter closed sessions for members only when matters of a confidential nature are under discussion. Outcomes of any discussions held in a closed session, which may affect content of standard(s), shall be reviewed during a subsequent session, including review with observers at the same meeting.

On questions of parliamentary procedure not covered by these Policies, *Robert's Rules of Order* (latest edition) shall prevail.

7.8 Meeting summaries

The assigned Chair/Secretariat shall be responsible for creating and distributing meeting summaries. The summaries shall contain all motions and their voting results. Any other discussion may be added at the Chair's discretion. Summaries shall be distributed to all committee members and made available to other interested parties on request.

7.9 Document distribution

Meeting agendas, meeting summaries, and draft standards shall be provided to all members. Such documents shall be provided to other interested parties on request.

8 Balloting

8.1 Joint committee

8.1.1 General

All proposed new standards or revisions to existing standards shall be reviewed by the applicable JC via electronic ballot.

8.1.2 Ballot/correspondence preparation

The JC Chair shall review all JC correspondence relating to ballots, drafts, and supporting documents. The Secretariat shall send ballots and balloting documentation to members. The JC Chair shall work with the Secretariat to resolve all substantive changes and negative comments.

8.1.3 Ballot period

Generally, members shall return their ballots within 21 calendar days of the transmittal date, although the JC Chair may request a ballot return in fewer than 21 calendar days. Members shall, in all cases, be given a minimum of 14 days to return ballots. Ballots received after the closure date may not be counted, unless the JC Chair has authorized an extension.

8.1.4 Ballot options

Each member of the JC shall have one vote. The use of proxies is not permitted for the balloting. A member shall vote based on one of the following positions:

- affirmative;
- affirmative, with comment(s). Comment(s) shall be considered editorial;
- negative, with reason(s). Reason(s) for a negative ballot shall be given and shall include specific wording on recommended action(s) to resolve objections. A negative ballot that is not accompanied by a written explanation shall be recorded as such and no further action shall be required; or
- abstain, with reason(s). An abstention ballot that is not accompanied by a written explanation shall be recorded as such, and no further action shall be required.

8.1.5 Ballot results

Affirmative ballots shall be received from a majority (greater than 50 percent) of the JC members, and an affirmative ballot total of at least two-thirds of those voting, excluding abstentions, shall be attained before a proposed standard or revision is recommended for adoption.

8.1.6 Negative ballots / public comments

The Secretariat shall refer all negative votes and comments cast with substantive issues to the JC Chair for review.

8.1.6.1 The JC Chair shall determine whether expressed views and objections shall be considered by correspondence, by telephone, or at a meeting.

8.1.6.2 Prompt consideration shall be given to all negative ballots and comments. A concerted effort to resolve all negative ballots and comments shall be made, and each submitter shall be advised in writing of the disposition of the negative and the reasons therefore.

8.1.6.3 The JC Chair and the submitter may determine that the negative can be resolved without substantive change to the standard. Only comments relating to the issue under ballot shall be considered. All other comments shall be treated as new proposals.

8.1.6.4 Each unresolved negative ballot/comment and attempt at resolution, and substantive changes to the draft standard to resolve negative ballots/comments, shall be submitted to the JC for review to afford

members the opportunity to respond, reaffirm or change their votes. At the completion of the JC review, if the requirements of 8.1.5 are obtained, all negative ballots/comments shall be considered adjudicated.

8.1.6.6 When submitting the decision of the JC to the objector, the JC Chair shall advise the objector of the right to appeal the decision in accordance with these Policies. The objector shall be provided a copy of 10 for review.

NOTE – Comments on certification issues related to the proposals under consideration are considered non-germane and outside the scope of the Standards process. Comments related to certification may be provided to the Secretariat of the NSF Certification Council for consideration.

8.1.7 Member resignation during balloting period

If a member resigns from the JC during the balloting period and has not voted, the member shall be removed from the JC and not be included in the ballot calculations. If a member submits an affirmative vote and then resigns, the vote shall be recorded and counted. If the member submits a negative vote and then resigns, a reasonable effort shall be taken to adjudicate the negative ballot, e. g., the negative ballot shall be circulated to the full committee for consideration. A reasonable effort shall be taken to offer the right of appeal, and in the records for the ballot, the Secretariat shall document the actions taken to resolve the negative vote.

8.2 Council of Public Health Consultants

The NSF Council of Public Health Consultants has a voting role in the development of NSF Standards. The CPHC vote consists of two actions. A CPHC Technical Committee (see 8.2.1) reviews ballot proposals concurrently with the Joint Committee ballot. When the Joint Committee and Technical Committee balloting requirements have been satisfied (see 8.1.5, 8.1.6, and 8.2.1.3), the proposal is forwarded to the relevant CPHC balloting group (see 8.2.2).

When NSF processes a non-NSF standard as an American National Standard, the CPHC balloting process is optional.

8.2.1 CPHC technical committee (TC)

The TC is composed of no more than four members of the CPHC having technical expertise in the area being balloted. These members are appointed by the CPHC Secretariat.

8.2.1.1 TC ballot/correspondence preparation

TC balloting is concurrent with JC balloting (see 8.1.3). TC members' comments shall be resolved by the TC Chair, and TC negatives shall be returned to the JC Chair for resolution by the JC.

8.2.1.2 TC ballot options

Each member of the TC shall have one vote only and shall vote one of the following positions:

- send to CPHC (affirmative);
- send to CPHC, with comment(s) (affirmative with comment). Comment(s) shall be considered editorial; or
- return to JC, with reason(s). Reason(s) for a return to JC ballot shall be given and include specific wording on recommended action(s) to resolve objections. A return to JC ballot that is not accompanied by a written explanation shall be recorded as such and no further action shall be required.

8.2.1.3 TC ballot results

All TC members shall have voted to send a proposed standard or revision to the CPHC before the ballot shall be submitted to the applicable CPHC standards balloting group for review. If negative votes are cast involving substantive issues, they shall be referred to the responsible JC for resolution.

8.2.2 CPHC balloting

Generally, members shall return their ballots within 21 calendar days of the transmittal date, although the CPHC Chair may request a ballot return in fewer than 21 calendar days. Members shall, in all cases, be given a minimum of 14 days to return ballots. Ballots received after the closure date may not be counted, unless the Chair has authorized an extension. A Council member may elect to vote on all standards proposals, or may elect to be assigned to one of two standards balloting groups, as follows:

- Food/Sanitation standards,
- Water/Environmental standards.

Each Council member shall vote one of the following positions per ballot:

- affirmative, with or without comments. Comment(s) shall be considered editorial;
- negative, with reasons. Reasons for a negative ballot shall be given and shall include specific wording on recommended actions to resolve objections. A negative ballot that is not accompanied by a written explanation shall be recorded as such and no further action shall be required; or
- abstain, with reasons. An abstention ballot that is not accompanied by a written explanation shall be recorded as such and no further action shall be required.

8.2.2.1 Ballot results

A return of not less than 80 percent of all ballots (affirmatives, negatives, and abstentions) is required. An affirmative vote total of at least 90 percent of combined affirmative and negative votes shall be attained before a proposed standard or revision is recommended for adoption.

8.2.2.2 Negative votes

If negative votes are cast by CPHC members involving substantive issues, the Secretariat shall refer them to the responsible JC for resolution. If the Council member casting the negative vote adjudicates the negative and changes to an affirmative vote, the original negative vote is not circulated to the full Council balloting group. If the Council member maintains a negative vote, the negative vote and supporting reasons shall be circulated to the Council balloting group to afford an opportunity to respond, reaffirm or change original votes. A standard with negative votes from the CPHC can be moved forward for adoption if the JC has previously adjudicated the objection, and the minimum CPHC ballot percentage affirmative requirement is satisfied (see 8.2.2.1).

8.2.2.3 Member resignation during balloting period

If a member resigns from the CPHC during the balloting period and has not voted, the member shall be removed from the CPHC and not be included in the ballot calculations. If a member submits an affirmative vote and then resigns, the vote shall be recorded and counted. If the member submits a negative vote and then resigns, a reasonable effort shall be taken to adjudicate the negative ballot, e. g., the negative ballot shall be circulated to the relevant CPHC standards balloting group for consideration. A reasonable effort shall be taken to offer the right of appeal, and in the records for the ballot, the Secretariat shall document the actions taken to resolve the negative vote.

9 Public review of proposed standards

The public review process may occur concurrently with the JC, TC, and CPHC balloting. The Secretariat shall send a BSR 108 to ANSI for notification of public review and comment. An announcement shall be published in ANSI's *Standards Action* that a standard is available for review and comment, specifying a source for further information.

All comments from public review are sent to the JC Chair, who will resolve them according to 8.1.6. Prompt consideration shall be given to the written views and objections of all participants. If substantive changes are made to the proposed standard in the process of resolving comments and objections, the Secretariat shall submit another BSR 108 to ANSI for the conduct of an additional public review and comment period.

After the CPHC balloting process has concluded, the Secretariat shall file a BSR-109 (Formal Submittal for Approval/Withdrawal as ANS) to notify ANSI that the standard has been revised and is/will be ready for publication, or has been withdrawn. This information is published in ANSI *Standards Action*.

10 Appeals process

All unresolved objectors, including public review objectors, shall be notified of their right to appeal. The notification of the right to appeal letter shall notify the unresolved objectors that they have the right to appeal on procedural issues and the procedures relating to an appeal.

10.1 Persons who have directly and materially affected interests and who have been or will be adversely affected by a standard, or by the lack thereof, shall have the right to appeal procedural actions or inactions of the JC. Appeals shall only be considered when due process provided in these Policies has been exhausted.

10.2 The appellant shall file a written appeal with the JC Chair within 15 business days after the date of notification of action or at any time with respect to inaction. The appeal shall state the nature of the objection(s), including any adverse effects; the section(s) of these Policies 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.

10.3 Within 30 calendar days after receipt of the appeal, the JC Chair shall respond in writing to the appellant, specifically addressing each allegation of fact in the complaint.

10.4 If the appellant and the JC Chair are unable to resolve the written appeal in a manner consistent with these procedures, the JC Chair shall initiate formation of an appeals panel.

10.5 The appeals panel shall consist of three individuals from the CPHC or the NSF Certification Council, nominated by the JC Chair. At least two of the members of the panel shall be acceptable to the appellant. The JC Chair assigns a fourth individual to serve as Secretariat to the appeals panel. The appeals panel Secretariat shall have no vote. Members of the applicable JC shall not serve on the appeals panel. The members of the appeals panel shall select a Chair from among their membership. The appeals panel shall be charged with determining whether the appellant received due process and that proper procedures were followed in addressing the appellant's objections. Technical issues shall be addressed by the appropriate JC.

10.6 The appellant has the burden of demonstrating adverse effects, improper actions or inactions, and the efficacy of the requested remedial action. The NSF JC Secretariat shall act as respondent to the complaint before the appeals panel. The respondent has the burden of demonstrating that the JC took all

actions in compliance with these Policies. 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.

10.7 The appeals panel Secretariat, with final approval by the Chair of the appeals panel, shall document the majority decision of the appeals panel within 30 calendar days, stating findings of fact and conclusions, with reasons therefore, based on a preponderance of the evidence. Consideration may be given to the following positions, among others, in formulating the decision:

- a) finding for the appellant and remanding the action to the JC;
- b) finding for the respondent; and
- c) finding that new, substantive evidence has been introduced and remanding the entire action to the JC for appropriate reconsideration.

10.8 At the completion of the appeals process, the Chair of the appeals panel shall advise the appellant of the right to appeal the decision rendered to ANSI if the appeals panel did not find for the appellant. If the appellant gives notice that further appeal to ANSI is intended, a full record of the complaint, response, hearing, and decision shall be submitted by the Secretariat to ANSI.

11 Draft standards for trial use

11.1 Proposal of draft standards for trial use

A materially and directly interested party may approach NSF about the feasibility of publishing a draft standard for trial use. If a JC exists covering the scope of the proposal, the requestor will complete an Issue Paper, which will be sent to the responsible JC. This requestor may supply a draft of the standard or a suggestion that a draft be written. If no JC exists covering the scope of the proposal, NSF may decide to proceed with the publication of the draft standard prior to the formation of a JC.

11.2 Publication of draft standards for trial use

11.2.1 ANSI shall be notified via the Request to Announce the Availability of a Draft Standard for Trial Use form of the intent to register a draft standard for trial use. All public comments shall be responded to by the JC Chair, or by NSF if no JC exists.

11.2.2 After all public comments have been responded to, NSF staff will edit the draft standard document for publication.

11.2.3 The following statement, or equivalent, shall be included on the front cover of the draft standard for trial use:

"Publication of this draft standard for trial use and comment has been approved by NSF International. Distribution of this draft standard for comment shall not continue beyond () months from the date of publication. It is expected that following this () month period, this draft standard, revised as necessary, will be submitted to the American National Standards Institute for approval as an American National Standard. A public review in accordance with ANSI Essential Requirements is required at the end of the trial use period and before a draft standard for trial use may be submitted to ANSI for approval as an American National Standard. This draft standard is not an American National Standard. Suggestions for revision should be directed to the Secretariat.

NSF will not use the ANSI logo or trademark on any document that has not been approved as an American National Standard, including a draft standard for trial use. If NSF complies with the ANSI

Essential Requirements in connection with a draft standard for trial use, it may refer to the draft standard as a *Draft American National Standard for Trial Use*.

11.2.4 By the end of the trial use period, all further processing of the draft standard for trial use as an NSF or NSF/ANSI standard shall be in compliance with the applicable requirements of these Policies.

12 National adoption of ISO or IEC standards as American National Standards

If NSF wishes to adopt an ISO or IEC standard as an American National Standard, it shall comply with the requirements set forth in the *Procedures for the National Adoption of ISO or IEC Standards as American National Standards*, the latest edition of ANSI's *Essential Requirements: Due process requirements for American National Standards*, and these Policies.

NOTE – NSF will use the ANSI expedited procedures when adopting standards related to the above.

13 Patents in NSF Standards

An NSF Standard may include the use of a patented item, if it is considered that technical reasons justify this approach. If a standard requires the use of a patented invention, policies noted here shall be followed.

13.1 Statement from patent holder

Prior to approval of a standard referencing a patented item, the JC Chair shall receive from the identified party or patent holder assurance in the form of a general disclaimer to the effect that such party does not hold and does not currently intend to hold any invention the use of which would be required for compliance with the proposed standard, or assurance that:

- a license will be made available without compensation to the applicants desiring to utilize the license for the purpose of implementing the Standard; or
- a license will be made available to applicants under reasonable terms and conditions that are demonstrably free of any unfair discrimination.

13.2 Record of statement

A record of the patent holder's statement shall be retained by the Secretariat. If the Standard is intended to be submitted as an American National Standard, the statement shall be provided to the American National Standards Institute.

13.3 Notice

When the JC Chair receives from a patent holder assurance set forth in 13.1, the Standard shall include as follows:

NOTE – The user's attention is called to the possibility that compliance with this standard may require use of an invention covered by patent rights. By publication of this standard, no position is taken with respect to the validity of this claim or of any patent rights in connection therewith. The patent holder has, however, filed a statement of willingness to grant a license under these rights on reasonable and nondiscriminatory terms and conditions to applicants desiring to obtain such license. Details may be obtained from NSF.

13.4 Responsibility for identifying patents

NSF shall not be responsible for identifying patents for which a license may be required or for conducting inquiries into the legal validity or scope of those patents that are brought to its attention.

14 Commercial terms and conditions

Provisions involving business relations between buyer and seller such as guarantees, warranties, and other commercial terms and conditions shall not be included in an NSF Standard. The appearance that a standard endorses any particular products, services or companies shall be avoided. It is generally not acceptable to include proper names or trademarks of specific companies or organizations, acceptable manufacturer lists, service provider lists, or similar material in the text of a standard or in an annex (or the equivalent). Where a sole source exists for essential equipment, materials or services necessary to determine compliance with the standard, 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 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.

15 Interpretations

15.1 The responsible NSF JC is the sole authorized body to interpret NSF Standards. NSF reserves the right to charge a reasonable fee for the processing of interpretation requests.

15.2 All requests for interpretations of Standards shall be submitted in writing and shall include the reasons for the request and a clearly stated suggested interpretation for consideration. Requests shall be made to the JC Secretariat.

15.3 The Secretariat, in consultation with the JC Chair, shall determine if the interpretation may be issued by the Secretariat or if the JC should consider the request. If the requestor is not satisfied with the interpretation provided by the Secretariat, the requestor may request that the interpretation be considered by the JC. If submitted to the JC, the interpretation shall be accepted by an affirmative ballot of at least two-thirds of those voting, excluding abstentions.

15.4 No interpretation is binding on NSF unless it has been established in accordance with the above procedures.

16 Committee expenses and contracts

NSF may provide travel and subsistence expenses, according to its reimbursement policies, to user and regulatory agency members. Industry members shall cover their own expenses.

16.1 Joint committee expenses

Expenses for committee participation (meetings, teleconferences, etc.) will not be assumed by NSF unless expenditures are previously authorized by NSF and are within amounts determined to be reasonable by NSF.

Travel and subsistence expenses may be provided in accordance with NSF corporate fiscal policies to public health / regulatory and user members whose agencies permit them to accept such support. Committees shall not pay salaries or professional fees in any form to any JC or TG member to carry out the responsibilities of their NSF participation.

16.2 Contracts

No person has the authority to negotiate or execute any contract on behalf of NSF except the Chief Executive Officer of NSF or a designee thereof.

17 Editorial revisions

17.1 The Secretariat in consultation with the responsible Chair and Technical Representative may editorially revise (without JC review) standards to ensure that requirements are clearly stated.

17.2 Editorial revisions shall not affect the intent or requirements of the standard. Examples of substantive changes that would not be considered editorial are:

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

18 Issuance

NSF shall issue new and revised standards approved by consensus of the JC and CPHC. Effective dates are not part of the standard normative text and are established by NSF.

19 Periodic review

19.1 NSF Standards not maintained under “continuous maintenance” shall be reaffirmed, revised, or withdrawn at least every five years.

19.2 If a reaffirmation, revision, or withdrawal is in process when the five-year limit is reached, NSF may request an extension from ANSI. The standard shall be withdrawn if no action is taken at the end of the extension.

19.3 Standards shall not be designated as American National Standards if no action has been taken beyond 10 years from the date of approval.

19.4 The applicable JC shall be notified of all extensions.

20 Recordkeeping

20.1 Periodic maintenance

General correspondence, including, but not limited to, draft standards, ballots, meeting summaries, appeals, or related information relative to review, revision, affirmation, or withdrawal of a standard shall be retained for at least five years, or until the next full revision of the standard, whichever comes later. Records related to a standard that has been withdrawn shall be retained for at least five years.

20.2 Continuous maintenance

Records of standards on continuous maintenance shall be retained for a minimum of five years or until approval of the subsequent revision or reaffirmation of the complete standard. A documented program for periodic publication of revisions shall be established by NSF. The published standard shall include a clear statement of the intent to consider requests for change, and information on the submittal of such

requests. Procedures shall be established for timely, documented consensus action on each request for change, and no portion of the standard shall be excluded from the revision process.

21 Disclaimers

Participation in NSF's standards development/maintenance activities by regulatory agency representatives does not constitute endorsement of NSF or its Standards by the member's governmental agency or any of its subdivisions.

22 Standards publication style

22.1 NSF shall use the *ANSI Style Guide-sheet* – 2003 as a guideline for NSF Standards' format.

22.2 Metrication

22.2.1 Metric units shall be included with inch-pound units in all standards. The primary units used shall be determined by the applicable JC.

22.2.2 When inch-pound units are the primary units, "soft metrication" shall be used when providing metric units as equivalent. The intended tolerance, when not otherwise specified, shall be based on the inch-pound unit.

22.2.3 When a tolerance is not specified, conformance to the requirement shall be determined using the rounding method per ASTM E29 –06b (2007).⁵

23 Legal representation

A member of a JC or TG or an observer who intends to have legal representation at a meeting may do so only after requesting and receiving prior written authorization by NSF. A written request shall be provided to NSF at least 10 calendar days before the meeting. If such a request has not been made, legal representation will not be permitted at the meeting. NSF reserves the right to have legal counsel present at any time without notice.

24 Discontinuation of proposed standard

NSF reserves the right not to proceed with the development of a proposal submitted for a standard if, in the exercise of its judgment, the publication of the proposed requirements would not be in the best interests of NSF. The decision on whether to pursue the development of a Standard shall be made by the Chief Executive Officer and informed senior management officers. If the decision is made to not proceed, NSF shall provide any interested party with a letter that explains NSF's reasons for not processing the proposal. Such a decision is not appealable.

⁵ ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428

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***THE HOPE OF MANKIND rests in the
ability of man to define and seek out
the environment which will permit him
to live with fellow creatures of the
earth, in health, in peace, and in
mutual respect.***