



1605 King Street
Alexandria, VA 22314
(703) 549-7600
www.opei.org

OPEI Standards Development Procedures

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- (Section 2.2 inserted footnote regarding the WTO 60-day rule, revised February 2016)
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- (Clarification of current processes and correction of “developer” to OPEI, revised February 28, 2017)
- (Section 1.0 revised in accordance with revised Section 4.1.3 of ANSI Essential Requirements: Due process requirements for American National Standards, Edition: January 2018; clarification of Section 4.3 voting requirements; updated address, revised February 2018)
- (Section 2.2 “Public Review” updated to clarify documents required to be provided with public review requests. New Section 3.2 inserted to specify new balance requirements. Section 3.3 updated to address interested stakeholders who were not included in the Consensus Body due to balance requirements. Section 4.2 updated to clarify requirements for providing documents. Other general clarifications, including updating “canvass body” and “canvass list” to “consensus body” and “consensus list” throughout. Revised February 2019.)

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Procedures for Standards Development

Outdoor Power Equipment Institute

1.0 General

These procedures describe the Outdoor Power Equipment Institute's ("OPEI") process of developing evidence of consensus for the approval, reaffirmation, revision, or withdrawal of American National Standards. Standards committee activities shall be conducted in accordance with these procedures. In order to maintain accreditation by ANSI, OPEI shall continue to maintain procedures meeting the requirements of due process and criteria for approval and withdrawal of American National Standards contained herein and continue to maintain its status as an incorporated, registered or otherwise recognized legal entity. Where these procedures are silent on an issue, the *ANSI Essential Requirements: Due process requirements for American National Standards* ("ANSI Essential Requirements") shall serve as the precedent document.

2.0 Notification of standards development and coordination

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.

When warranted OPEI will consult any relevant international or regional guides that may impact the proposed standard and shall advise the relevant ANSI-Accredited U.S. TAG(s) if the standard is intended to be submitted for consideration as an ISO, IEC or ISO/IEC JTC-1 standard.

2.1 Project Initiation Notification (PINS)

At the initiation of a project to develop or revise an American National Standard, including the national adoption of ISO and IEC standards as American National Standards, but excluding actions set-forth in 2.1.1, notification shall be transmitted to ANSI using the Project Initiation Notification System (PINS) form, or its equivalent, for listing in *Standards Action*. Comments received in connection with a PINS announcement shall be handled in accordance with these procedures.

A statement shall be submitted and published as part of the PINS announcement that shall include:

- (a) An explanation of the need for the project; including, if it is the case, a statement of intent to submit the standard for consideration as an ISO, IEC or ISO/IEC JTC-1 standard, and
- (b) Identification of the stakeholders (e.g. telecom, consumer, medical, environmental, etc.) likely to be directly impacted by the standard.

If the response to sub-section (b) changes substantively as the standard is developed, a revised PINS shall be submitted and published.

2.1.1 PINS Exceptions

A PINS is not required for revisions of an American National Standard that is maintained under continuous maintenance and (1) is registered as such on the ANSI website, (2) has a notice in the standard that the standard is always open for comment and how to submit comments, and (3) has information on the developer's website that the standard is under continuous maintenance and how to submit comments. A PINS is also not required in connection with the decision to maintain an ANS under the stabilized maintenance option. A PINS form may be submitted, but is not required, at the initiation of a project to reaffirm or withdraw an American National Standard.

2.1.2 Assertions of conflict or duplication

If OPEI receives written comments within 30 days from the publication date of a PINS announcement in *Standards Action*, and said comments assert that a proposed standard duplicates or conflicts with an existing American National Standard or a candidate ANS that has been announced previously (or concurrently) in *Standards Action*, a mandatory deliberation of representatives from the relevant stakeholder groups shall be held within 90 days from the comment deadline. Such a deliberation shall be organized by OPEI and the commenter and shall be concluded before OPEI may submit a draft standard for public review. If the deliberation does not take place within the 90-day period and OPEI can demonstrate that it has made a good faith effort to schedule and otherwise organize it, then OPEI will be excused from compliance with this requirement. The purpose of the deliberation is to provide the relevant stakeholders with an opportunity to discuss whether there is a compelling need for the proposed standards project.

2.1.3 PINS Deliberation Report

The outcome of a PINS deliberation shall be conveyed in writing (the "Deliberation Report") within 30 days after the conclusion of the deliberation by OPEI to the commenter and to ANSI. Upon submission of the Deliberation Report, OPEI may continue with the submission of the draft standard for public review. If additional deliberations take place, they should not delay the submission of the draft for public review, and an updated Deliberation Report shall be conveyed within 30 days after each deliberation. Any actions agreed upon from the deliberations shall be carried out in a reasonably timely manner, but normally should not exceed 90 days following the deliberation. Subsequently, OPEI shall include all of the Deliberation Report(s) with the BSR-9 submittal to the ANSI Board of Standards Review (BSR) for consideration should OPEI ultimately submit the subject standard to ANSI for approval. Stakeholders who were involved in the PINS deliberation process may also file separate Deliberation Report(s) with ANSI and OPEI within 30 days after conclusion of any deliberation for consideration by the BSR, if the standard is submitted to ANSI for approval.

In the case of ANSI Audited Designators, the Audited Designator shall provide a Deliberation Report to the commenter and to ANSI within 30 days after each deliberation. The Audited Designator shall review the results of the deliberation prior to designating a standard as an ANS.

While the outcome is not binding, unless binding provisions are agreed to by OPEI, participants are encouraged to develop a consensus on whether and how the standards development project should proceed. See also Section 4.3 – ANSI Essential Requirements; Due process requirements for American National Standards.

2.2 Public Review¹

In addition, proposals for new American National Standards and proposals to revise, reaffirm, or withdraw approval of existing American National Standards shall be transmitted to ANSI using the BSR-8 form, or its equivalent, for listing in *Standards Action* in order to provide an opportunity for public comment. If it is the case, then a statement of intent to submit the standard for consideration as an ISO, IEC or ISO/IEC JTC-1 standard shall be included as part of the description of the scope summary that is published in *Standards Action*. The comment period shall be one of the following:

- A minimum of thirty days if the full text of the revision(s) can be published in *Standards Action*;
- A minimum of forty-five days if the document is available in an electronic format, deliverable within one day of a request, and the source (e.g., URL or an E-mail address) from which it can be obtained by the public is provided to ANSI for announcement in *Standards Action*; or
- A minimum of sixty days, if neither of the aforementioned options is applicable.

Such listing may be requested at any stage in the development of the proposal, at the option of OPEI, and may be concurrent with final canvass balloting. However, any substantive change subsequently made in a proposed American National Standard requires listing of the change in *Standards Action*.

A copy of the complete proposed American National Standard, or the relevant portion under consideration, and an official letter ballot shall be provided with all public review requests.

2.3 Withdrawal of a Standard

If OPEI wishes to withdraw its approval of one or more of its American National Standards, it may do so without a vote of a consensus body. If OPEI staff does decide to withdraw one or more of its American National Standards, OPEI will notify ANSI and the standard shall be withdrawn as an ANS and announced in *Standards Action*.

2.4 Discontinuance of a Standards Project

OPEI may decide to discontinue the development of a proposed new or revised American National Standard or portion thereof at its own discretion and without a vote of a consensus body. OPEI will notify ANSI of such actions which will be announced in *Standards Action*.

3.0 Development of a consensus body

3.1 The OPEI shall develop a list of potential consensus body members consisting of those organizations, companies, government agencies, standards developers, individuals, etc., known to be, or who have indicated that they are, directly and materially affected by the standard. OPEI shall meet the *ANSI Essential Requirements 2.2* regarding lack of dominance and this section

¹ Although a 60-day public comment period is not required in all instances, a number of provisions in the ANSI Essential Requirements, when read in combination, satisfy the WTO's 60-day rule. Before adopting a standard, OPEI will allow a period of at least 60 days in total for submission of comments on the draft standard if requested by an interested party within the territory of a Member of the WTO. Exceptions outlined in the rule are permitted due to issues of safety, health or environment. (See WTO Agreement on Technical Barriers to Trade (TBT), Annex 3 Code of Good Practice for the Preparation, Adoption and Application of Standards (CGP) Substantive Provision L.)

3.2 of these procedures for balance. No individual shall represent more than one consensus body member. Interest categories are:

- a) general interest,
- b) user and,
- c) producer.

When appropriate, additional interest categories should be considered. Further interest categories that may be used to categorize directly and materially affected persons may consist of, but not limited to: consumer; directly-affected public; distributor or retailer; industrial/commercial; insurance; labor; manufacturer; professional society; regulatory agency; testing laboratory; or trade association.

Normally, balance is considered achieved if no single interest category constitutes more than a third of the membership of the consensus body. However, if the desired balance cannot be achieved despite reasonable attempts to recruit a more balanced membership, then the efforts shall be documented and the consensus body can proceed to function, while efforts to recruit new members continue. In no case shall a consensus body be formed with more than 50 percent of the membership in one interest category. If a consensus body member resigns or is removed in accordance with these procedures resulting in one interest category to have more than 50 percent of the membership, then immediate action shall be taken to recruit needed interest categories to bring the consensus body within the balance requirements of these procedures.

- 3.2** To determine if potential consensus body members are interested in participating, the OPEI shall conduct a pre-canvass interest survey, in which the OPEI informs the potential consensus body members in writing about the use of the canvass process for developing evidence of consensus, and, if the potential consensus body members are interested in participating, obtains an appropriate interest category classification. OPEI's letter shall contain (1) the designation and title of the standard, (2) scope and/or purpose of the standard, (3) the publication history of the standard development, and (4) an explanation of the ANSI function.

The time for response shall be at least thirty days from the date of the OPEI's letter and shall be so noted in the letter. All those who have agreed to participate shall be included on the consensus body, together with their agreed-upon interest categories in accordance with sections 3.1 and 3.2 above. Anyone who has agreed to participate, but who is excluded from the consensus body due to the balance requirements in section 3.2 shall be notified of OPEI's decision not to include them on the consensus body and be advised of the alternative public comment opportunity according to section 2.2 of these procedures. If the public comment period has closed prior to the consensus body selection, anyone who has agreed to participate, but who is excluded from the consensus body shall have thirty-days from the date of the notification to submit public comments.

Once an interest survey has been completed for a standard, it need not be repeated for subsequent balloting of the document. OPEI may conduct a single interest survey for a group or category of standards.

- 3.3** OPEI shall remove any consensus body member if that member fails to submit a vote in a timely manner for 4 consecutive ballots.

4.0 Conduct of canvass

- 4.1** OPEI may canvass a draft standard to the consensus body at any time. Members

subsequently added to the consensus body shall be provided the response time outlined in section 4.2.

4.2 OPEI shall transmit the following information to all consensus body members and other interested parties so requesting the specific information unless OPEI has previously supplied this information:

- a) the purpose and intended application of the standard;
- b) a publication history;
- c) an explanation of ANSI's function and the use of the canvass process in the voluntary consensus standards system;
- d) a copy of the consensus body list, consisting of the name, affiliation², and category of interest of each member;
- e) a copy of the complete proposed American National Standard or the relevant portion under consideration when the member has previously received the complete standard;
- f) official letter ballot(s);

Should the document contain material that is not to be considered for approval as an American National Standard, such as an introduction or annex, a clear statement shall be included indicating those portions of the standard that are to be considered for approval by ANSI.

The ballot form shall provide opportunity for the consensus body member to indicate its position (Affirmative, Affirmative with comment(s), Negative with reason(s), or Abstain with reason(s)) with the instructions that, in order to receive consideration, objections must be accompanied by supporting written reasons and, where possible, proposals for a solution to the problem raised. At least one follow-up shall be sent to consensus body members not responding. The canvass ballot period shall be at least thirty days. (Note, for public comments, the close of the ballot period shall coincide with the date published in *Standards Action* in accordance with section 2.2., regardless of when the draft standard and related materials are provided, except where the provisions of section 3.2 apply.) The canvass ballot period may be closed sooner if all consensus body members have responded. An extension may be granted upon request or as deemed necessary by OPEI.

4.3 Approval of a new standard, revision or reaffirmation of an existing standard, or an addendum to part or all of an existing standard shall require that a majority of the consensus body cast a vote (counting abstentions) and at least two-thirds of those voting approve (not counting abstentions).

4.4 Proposals for new American National Standards and proposals to revise, reaffirm, or withdraw existing American National Standards shall also be transmitted to ANSI for listing in *Standards Action* for comment. OPEI shall determine whether such listing shall be concurrent with the canvass and whether announcement of the proposed action in other suitable media is appropriate.

4.5 Views and objections resulting from the canvass shall be dealt with in accordance with

² 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 and interest category should be available. Contact information is not required.

clause 5.0.

5.0 Consideration of views and objections

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

In connection with an objection articulated during a public comment period, or submitted with a vote, an effort to resolve all expressed objections accompanied by comments related to the proposal under consideration shall be made, and each such objector shall be advised in writing (including electronic communications) of the disposition of the objection and the reasons therefore. If resolution is not achieved, each such objector shall be informed in writing that an appeals process exists within OPEI's procedures. Each objection resulting from public review or submitted by a member of the consensus body, and which is not resolved (see definition in *ANSI Essential Requirements*) must be reported to the ANSI BSR.

When this process is completed, OPEI may consider any comments received subsequent to the closing of the public review and comment period, or shall consider them in the same manner as a new proposal. Timely comments that are not related to the proposal under consideration shall be documented and considered in the same manner as submittal of a new proposal. The submitter of the comments shall be so notified.

Unresolved objections with comment, attempts at resolution, and any substantive change made in a proposed American National Standard shall be reported to the consensus body in order to afford all members of the consensus body an opportunity to respond, reaffirm, or change their vote.

6.0 Submittal of standard

Upon completion of the procedures for canvass, for disposition of views and objections, and for appeals, the proposed standard may be submitted to ANSI for approval.

The information to be supplied to ANSI shall be in accordance with the submission of the BSR-9 form to ANSI PSA Department.

7.0 Appeals

Persons who have directly and materially affected interests, and who have been or will be adversely affected by a standard being canvassed or by the lack thereof, shall have the right to appeal any procedural actions or inactions of OPEI with regard to the development of a proposed American National Standard or the revision, reaffirmation, or withdrawal of an existing American National Standard. The burden of proof to show adverse effect shall be on the appellant.

Any appeal must be filed in writing with OPEI a copy sent to ANSI within 60 days after the date of notification of any action, or at any time with respect to inaction. The complaint shall state the nature of the objection, the procedures or the section of the standard that are at issue, the action or inaction at issue, and the specific remedial action(s) that would satisfy the appellant's concerns.

OPEI will attempt to resolve the appeal/complaint informally within 30 days. If OPEI cannot resolve the appeal informally, then OPEI will schedule an appeals panel hearing.

OPEI shall provide or arrange for an appeals body composed of at least three individuals who

have not been directly involved in the dispute and are not directly and materially affected by any decision made in the dispute. At least two members of the panel shall be acceptable to the appellant and at least two shall be acceptable to the respondent.

The panel shall issue a decision in writing to appellant and all parties involved within 30 days of the completion of the appeals hearing.

OPEI shall respond in writing to the appellant, specifically addressing each allegation in the complaint to the extent possible.

A summary of the nature of the appeal, and the decision and rationale thereof, shall be reported to the consensus body and ANSI. Appeals shall be addressed promptly and a decision made expeditiously. Consideration of appeals shall be fair and unbiased and shall fully address the concerns expressed.

8.0 Requests for interpretation of standards

Written inquiries requesting interpretation of the approved American National Standards shall be responded to in a reasonable time period. OPEI shall forward written requests to the appropriate standards committee chairman. Proposed interpretations shall be prepared by the chairman or any committee member with particular expertise on the subject in question. All proposed interpretations shall be approved by a majority of the appropriate standards committee. The official OPEI response shall be in writing. Revisions to the standard resulting from requests for interpretations shall be processed in accordance with these procedures.

9.0 Patent Policy

OPEI will comply with the ANSI Patent Policy, Section 3.1 of the ANSI Essential Requirements; ANSI patent policy - Inclusion of Patents in American National Standards.

10.0 Metric Policy

OPEI accepts ANSI's Metric Policy, which states, "International System of Units (SI) are the preferred units of measurement in American National Standards."

11.0 Records

Records shall be prepared and maintained to provide evidence of compliance with these procedures. Records concerning new, revised, or reaffirmed American National Standards maintained under the periodic maintenance option described in 4.7.1 of the *ANSI Essential Requirements* shall be retained for one complete standards cycle, or until the standard is revised.

Records concerning actions on American National Standards, or a part of an American National Standard, maintained under the continuous maintenance option described in 4.7.2 of the *ANSI Essential Requirements*.

Records concerning withdrawals of all American National Standards shall be retained for at least five years from the date of withdrawal.

12.0 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 American

National Standard. The appearance that a standard endorses any particular products, services or companies must be avoided. Therefore, it generally is not acceptable to include 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 comply with or 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.

13.0 Antitrust Policy

American National Standards shall be developed in accordance with applicable antitrust and competition laws and meetings amongst competitors to develop American National Standards are to be conducted in accordance with these laws.

14.0 Adoption of an ISO or an IEC Standard as an American National Standard

OPEI may initiate national adoption of an identical or modified version of an ISO or IEC Standard as an American National Standard. When OPEI chooses to nationally adopt an ISO or IEC standard it shall follow its accredited procedures for developing American National Standards. Procedures are set forth below for the option of following the expedited procedures when seeking to adopt an ISO or IEC standard as an identical adoption.

14.1 Requirements Associated with the Identical or Modified Adoption of an ISO or IEC Standard as an American National Standard

OPEI will clearly identify during the ANS development and submittal process that it is the intent of the standards project to adopt a specific ISO or IEC standard and provide notice in compliance with current ANSI requirements.

OPEI will designate and publish the final approved American National Standard in compliance with applicable ANSI procedures.

OPEI will comply with the *ANSI Policy Regarding Rights to Nationally Adopt IEC and ISO Standards or Otherwise Use IEC and ISO Material* and submit evidence of compliance (such as a confirmation from the ANSI staff responsible for such contractual arrangements) as part of the formal submittal of the candidate American National Standard for approval.

14.2 Expedited Procedures for the Identical Adoption of an ISO or IEC standard as an American National Standard

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

The following provisions are applicable to the processes associated with the national adoption

of identical ISO or IEC standards:

14.2.1 Public notice and public review

When OPEI is proposing an identical national adoption of an ISO or IEC standard, the following apply:

a) Project Initiation Notice (PINS): The PINS provisions set-forth in the *ANSI Essential Requirements* apply. If a claim of conflict or duplication with an existing American National Standard is made, OPEI shall follow its accredited procedures and shall not utilize these expedited procedures.

b) Public Review: The public review announcement in *Standards Action* shall clearly indicate that the action pending is an identical adoption of an ISO or IEC standard. All comments received shall be provided to the consensus body for consideration in determining its position. The consensus body is not required to provide detailed responses to the comments unless a claim of conflict or duplication with an existing American National Standard is made. In that case, the OPEI shall follow its accredited procedures and shall not utilize these expedited procedures. OPEI shall inform public reviewers whether or not the identical adoption was approved for submission to ANSI.

14.2.2 Minimum consensus body ballot period

OPEI, using these expedited procedures, may utilize the minimum ballot period established by OPEI's accredited procedures for American National Standards. Alternatively, the consensus body may vote to establish a ballot period that is not less than two weeks.

14.2.3 Comment

OPEI shall clearly indicate to the consensus body that the ballot associated with the national adoption of an ISO or IEC standard only takes into consideration the identical adoption of the standard as an American National Standard. Thus, there is no opportunity for comment resolution unless a claim of conflict or duplication with an existing American National Standard is made. In that case, OPEI shall follow its accredited procedures and shall not utilize these expedited procedures. Any comments shall be provided to the members of the consensus body in order to provide them with the opportunity to respond, reaffirm, or change their vote within the time limits established by OPEI's accredited procedures; however, there shall be no attempt at resolution of the comments unless identical adoption under ANSI expedited procedures is abandoned and the consensus body decides to instead consider adoption (with or without national deviations) under its accredited procedures.

Comments received from either the consensus ballot or the public review period shall also be referred to the appropriate US TAG.

14.2.4 Notice of Action and Right to Appeal

Prior to the submittal to ANSI of a candidate American National Standard as an identical adoption following these expedited procedures, OPEI shall notify consensus body members and public commenters in writing of the intended final action on the standard and if there are unresolved objections, that an appeals process exists within the accredited procedures used by OPEI.

14.2.5 Approval of an ISO or IEC Standard as an American National Standard

A candidate American National Standard that is submitted as a result of the implementation of these expedited procedures shall be processed in the same manner as a standard that is submitted without objections. However, the right to appeal its approval as an ANS to ANSI is available.

14.2.6 Periodic Review

An ANS that is an identical adoption of an ISO or IEC standard may be reaffirmed at the same time that the corresponding ISO or IEC standard is reaffirmed by the respective organization.

If the ISO or IEC standard has been withdrawn, revised or superseded, similar action shall be considered by the OPEI within six months of the international action. If OPEI no longer has the rights under the *ANSI Policy Regarding Rights to Nationally Adopt IEC and ISO Standards or Otherwise Use IEC and ISO Material* with regard to the ISO or IEC standard, then the related ANS shall be withdrawn.