### REVISIONS

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ASME C&S Training Module C1
Module C - Legal

Module C contains five submodules. We will start with C1, Conflict of Interest/Code of Ethics.
C1. Conflict of Interest/Code of Ethics
Objectives

This submodule will describe ASME policy on ethical conduct and conflict of interest.
AGENDA

I. Introduction
II. Society Policy P-15.7, Ethics
III. Society Policy P-15.8, Conflicts of Interest

Agenda

After a brief introduction, we will review Society Policy P-15.7, Ethics, and Policy P-15.8, Conflicts of Interest.
Part I - Introduction
ASME COMMITMENT TO ETHICAL PRACTICE

- **ASME Constitution (C2.1.1)**
  - One purpose of the Society is to promote a high level of ethical practice
  - Members shall be governed in all professional and business relations by the Code of Ethics as stated in the Society Policies

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**ASME Commitment To Ethical Practice**

ASME Constitution (C2.1.1):
One purpose of the Society is to promote a high level of ethical practice.
In all professional and business relations, members of the Society shall be governed by the Code of Ethics as stated in Society Policies.
ASME Commitment To Ethical Practice

By-Law B2.1, Fulfillment of Purpose requires that the Society shall:
- Maintain a Code of Ethics of Engineers
- Promote and encourage practice within this Code
- Arrange for adjudication of violations of the Code
THE DEFINING POLICIES

- **Ethics**
  - Society Policy P-15.7, Ethics

- **Conflict of Interest**
  - Society Policy P-15.8, Conflicts of Interest

The Defining Policies

Ethics--Society Policy P-15.7, Ethics
Conflict of Interest--Society Policy P-15.8, Conflicts of Interest
Why Study the Policies?

Importance of awareness:
Some ASME codes and standards are referenced by a jurisdiction as a means of meeting their regulations. Such codes and standards then have the force of law. Awareness of these policies may reduce the likelihood of liability being imposed on an organization for the actions of its “agents,” with the “apparent authority” that members may wield as representatives of the Society (to reduce the possibility of another “Hydrolevel,” discussed in Module C2, Antitrust).
Formal Acceptance of Policy

Requirements:
Before being appointed as a member, unless there is in ASME's files a prior signed acceptance of Society Policy P-15-7 and P-15.8, each member of a sector, board, committee, subcommittee, or other decision-making body and each individual elected or appointed to act for or on behalf of ASME shall state in writing adherence to the conditions of Society Policy. If this signed statement is not on file, the appointment is not finalized.

Note that when Policy P-15.8, Conflicts of Interest, receives substantive revision as determined by the Committee on Ethical Standards and Review, all persons required to have a Conflict of Interest Statement on file shall receive a copy of the revised Policy and shall be requested to sign a new Conflict of Interest Statement.
Committee on Ethical Standards and Review

Responsibility:
Individuals participating as volunteers in ASME activities have the primary responsibility for assuring their adherence to Society Policies. Nonetheless, given the sensitive nature of these considerations and the interest of the Society in preserving the integrity of its reputation and processes, ASME retains responsibility for oversight in this area. Accordingly, the Board of Governors assigns oversight responsibility for these Society Policies to the ASME Committee on Ethical Standards and Review.

Authority:
The Committee on Ethical Standards and Review:
Shall have authority to review questions of conflicts of interest and to render opinions thereon
May authorize the Chair of the Committee on Ethical Standards and Review to issue a letter of warning or admonishment to persons who violate this policy
May request this Chair to refer the matter to the Executive Director for processing as an ethics complaint under policy P-15.4, which covers ethical conduct violation procedures
Indemnification – C4.1.12

“The Society shall indemnify each person (or heirs, executors and administrators) made, and the Society may in the discretion of the Board of Governors indemnify each person (or heirs, executors and administrators) threatened to be made, a party to an action or proceeding (other than one by or in the right of the Society to procure a judgment in its favor), whether criminal or civil, by reason of serving or having served as a member of the Board of Governors or member of a sector, board or committee, or an Officer, or employee of the Society, or of another corporation or organization with which such person may serve or have served as such or as a trustee, at the request of the Society, or by reason of otherwise serving or having served as a nominee of the Society, against judgments, fines, amounts paid in settlement and reasonable expenses (including attorney's fees actually and necessarily incurred as a result of such action or proceeding, or any appeal therein) provided that such person acted in good faith for a purpose which is reasonably believed to be in the best interests of the Society and, in criminal actions, had no reasonable cause to believe that the conduct was unlawful. Such expenses shall include the cost of reasonable settlement made with a view to curtailment of litigation. The foregoing right of indemnification shall not be exclusive of other rights to which any such person may be entitled as a matter of law.”
Pop Quiz #1

Answers:
1. True
2. False. The Committee on Ethical Standards and Review may authorize the Chair of the Committee to issue such a letter.
II. SOCIETY POLICY P-15.7, ETHICS

Part II – Society Policy P-15.7, Ethics
SOCIETY POLICY P-15.7, ETHICS

- **Description**
  - Requires ethical practice by every Society member
  - **Contents**
    - Code of Ethics of Engineers
      - Fundamental Principles
      - Fundamental Canons
    - Criteria for interpreting the Canons

**NOTE:** These principles also apply to all C&S committee members, including non-ASME members.

**Society Policy P-15.7, Ethics**

Description:
Requires ethical practice by every Society member

Contents
Code of Ethics of Engineers
Fundamental Principles
Fundamental Canons
Criteria for interpreting the Canons

**NOTE:** These principles also apply to all C&S committee members, including non-ASME members.
The Code of Ethics of Engineers

The Fundamental Principles:
Engineers uphold and advance the integrity, honor and dignity of the engineering profession by:
Using their knowledge and skill for the enhancement of human welfare
Being honest and impartial
Serving the public, their employers and clients with fidelity
Striving to increase the competence and prestige of the engineering profession
The Code of Ethics of Engineers

The Fundamental Canons:
The Code of Ethics states a number of fundamental canons. Of these, Safety, Conflict of Interest and Public Statements are particularly applicable to Codes and Standards (Note: the latter is on the next slide).

Engineers shall:

**Hold paramount the safety, health and welfare of the public in the performance of their professional duties**

Perform services only in the areas of their competence

Continue their professional development throughout their careers

Provide opportunities for the development of engineers under their supervision

**Act in professional matters for each employer or client as faithful agents or trustees, and avoid conflicts of interest or the appearance of conflicts of interest**
The Code of Ethics of Engineers

The Fundamental Canons (cont’d):

Engineers shall:
- Build their professional reputation on merit of services
- Do not compete unfairly with others
- Associate only with reputable persons or organizations
- Issue public statements only in an objective and truthful manner
- Consider environmental impact
- Consider sustainable development
The Fundamental Canons – ASME Criteria for Interpretation

Guidelines and represent the objectives toward which members of the engineering profession should strive.

They are principles which an engineer can reference in specific situations.

In addition, they provide interpretive guidance to the ASME Committee on Ethical Standards and Review on the Code of Ethics of Engineers.

They can be found on http://www.asme.org/NewsPublicPolicy/Ethics/Ethics_Center.cfm
Part III - Society Policy P-15.8, Conflicts of Interest
**SOCIETY POLICY P-15.8, CONFLICTS OF INTEREST**

- **Description**
  - Recognizes the importance of objectivity and impartial professional judgment to the integrity and public confidence in ASME’s work
  - Acknowledges that professionals may have conflicts of interest
  - Holds each individual responsible for determining when a conflict of interest exists
  - Establishes guidelines and procedures to help individuals act ethically

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**Society Policy P-15.8, Conflict of Interest**

**Description:**
This Society Policy is intended to further assure the objectivity and public confidence in the integrity of all Society deliberations and statements by establishing guidelines and procedures concerning conflicts of interest.

The policy recognizes the importance of objectivity and impartial professional judgment to the integrity and public confidence in ASME’s work.

It also acknowledges that competent and knowledgeable individuals of recognized abilities, qualifications and interests who participate in professional activities may have potential conflicts of interest.

It holds each individual responsible for determining when a conflict of interest exists, but it provides guidelines and procedures to help individuals avoid conflict of interest and uphold the integrity of the Society’s policies, rules, codes and standards.
Policy

When does a conflict of interest exist?
The potential for a conflict of interest exists whenever a person owes a loyalty to multiple interests or organizations. Having different interests or loyalties does not constitute a conflict of interest when the action desired by each interest is the same. This situation may be described as a community of interest. A conflict of interest occurs only when loyalty to one interest would impel a course of action different from that impelled by another interest. For example, while acting for or on behalf of the Society, a volunteer may consider a matter which directly affects the specific rather than the collective interests of the individual's employer or a competitor of the employer. In such instances, there could be a conflict of interest between exercise of the volunteer's independent professional judgment on behalf of ASME and the public and the individual's loyalties and responsibilities to his or her employer or another entity.

In many ASME standards writing committees and other committees, the procedures for appointment provide for a balanced or diversified representation among the various categories of interest within the scope of that committee's concern. This "balance of interest" minimizes the instances of appearance of conflict of interest by preventing situations in which a single interest group could control the action on an issue. Accordingly, where general categories of interest were considered in appointing a balanced committee or other group, an individual's identification with the particular interest shall not be grounds for raising an issue of the appearance of a conflict of interest. This is particularly so because the removal of one or more individuals representing a particular category of interest on conflict of interest grounds could upset the planned balance of economical and technical interests.
**Policy**

Volunteer’s fundamental responsibility:
It is the duty of volunteers acting for or on behalf of the Society to be aware of the possibility of a conflict of interest between their responsibilities to ASME and the public on the one hand and to their employer or another entity on the other. All volunteers have a fundamental responsibility to refrain from participating in Society decision making when a competing interest precludes or inhibits the exercise of the volunteer's independent professional judgment on behalf of ASME, or when the nature of the competing interest is such that the volunteer's continued participation would unreasonably jeopardize the integrity of the decision making process.
Responsibilities

Individual responsibilities:
In instances where it is clear to the individual volunteer that his or her judgment with respect to a matter pending before ASME is controlled by his or her loyalty to a competing interest, the individual should disqualify himself or herself and refrain from participating in the deliberations and decision-making regarding the conflict-affected matter. This does not preclude the individual’s attendance and participation at any meeting of a committee or other body on the same basis as any non-member of the committee or other body.
Responsibilities

Individual responsibilities (cont’d):
When an individual volunteer who is a member of a decision-making body—such as a sector, board, committee or division—believes that his or her participation may give the appearance of a conflict of interest, he or she should do the following, even if it is the individual’s belief that his or her independent judgment will not be affected by the competing interest.
The individual should make certain that all concerned with the projected deliberations or decision-making clearly understand the facts and circumstances involved in this possible conflict situation.
Following due consideration of the circumstances involved, the group should determine, by secret ballot, whether continued participation will not unreasonably jeopardize the integrity of the decision-making process. Continued participation requires a three-fourths majority.
If the group votes against continued participation, the individual shall refrain from participation in deliberations and decision-making regarding the conflict-affected matter.
A conflict of interest decision may be referred to the appointing committee or supervisory body, if any. Subsequently, if it is unresolved, it may be referred to the designated conflict of interest oversight body, i.e. the Committee on Ethical Standards and Review, by the Chair of the committee, subcommittee or other body, or by the individual volunteer or any other participant in the potential conflict of interest consideration.
Responsibilities

Individual responsibilities (cont’d):
If an individual serving on a committee or group wishes to bypass the step described on the previous slide:
The individual should bring the potential conflict of interest matter directly to the attention, in the first instance, of the appointing committee or supervisory body, if any.
If unresolved, the matter may be appealed to the conflict of interest oversight body designated by the Board of Governors, i.e., the Committee on Ethical Standards and Review.
Responsibilities

The right to challenge participation:
Any member of a sector, board, division, committee, section, subcommittee or other decision-making body who believes that the continued participation of any other member of that body may unreasonably jeopardize the integrity of the decision-making process may call for the consultative courses of action described in the previous two slides.
Pop Quiz #2

Answers:
None of the statements is true.
An individual is responsible for identifying potential conflicts of interest.
A member’s interest category does not automatically disqualify them. In fact, it may be important evidence of balanced representation on the issue.
The committee member must refer the matter to his committee or a supervisory body. He should not decide the issue on his own.
Avoiding The Appearance Of Conflict Of Interest

Balance in a Committee
Members are appointed as individuals, not representatives of companies or organizations.
Members are categorized by the nature of their employment or financial support for Committee activities.
A balance of interests may prevent a single interest group from controlling an action.

Open Meetings

Disclosure of issues
Summary

I. Introduction
II. Society Policy P-15.7, Ethics
III. Society Policy P-15.8, Conflicts of Interest
REFERENCES

- ASME Constitution*
  - C2.1 Purposes
  - C4.1.2 Indemnification
- Society Policies*
  - P-15.4, Ethical Conduct Violation Procedures
  - P-15-7, Ethics
  - P-15-8, Conflicts of Interest
- Codes and Standards Policy**
  - CSP-11, Canon of Ethics

*Available on ASME Web site at:
http://www.asme.org/governance/constitution_bylaws.cfm
**Available on C&S Web site at
http://cstools.asme.org/csconnect/CommitteePages.cfm?
Committee=A01000000&Action=7609

References