enosema

DIRECTIVE
Directive

EFD 104:2026

Enosema Directive: Guidelines for the implementation of the Enosema patent policy

First edition

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Foreword

The Enosema Foundation ("ES") is the premier non-profit standardization organization for terminology standardization and terminology related processes such as management. It facilitates the education, standardization, research, promotion, definition, and usage of terminology resources and management practices globally.

ES works with international partners and experts across the globe, reflecting the international nature of its mission. More information about ES is available on the official website (https://www.enosema.org).

The procedures used to develop this document and those intended for its further maintenance are described in the ES Directives.

In particular the different approval criteria needed for the different types of ES documents should be noted. This document was drafted in accordance with the editorial rules of the ES Directives.

Attention is drawn to the possibility that some of the elements of this document may be the subject of patent rights. ES shall not be held responsible for identifying any or all such patent rights. Details of any patent rights identified during the development of the document will be provided in the Introduction.

Any trade name used in this document is information given for the convenience of users and does not constitute an endorsement.

This document was prepared by the Board of Directors, supported by the Technical Coordination Board (TCB).

This document is one of the ES Directives, and it was derived from the EXPRESS Language Foundation (ELF) Directives, published under the Creative Commons Attribution 4.0 International (CC BY 4.0) license. It has been rewritten for the Enosema organization and domain.

This document provides guidance on the implementation of the ES patent policy (EFD 103:2026) as applicable to internal process and procedures, especially in relation to the standardization and publication processes described in EFD 101:2026.

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Introduction

0.1 General

ES is committed to expanding the realm of standards for terminology, concepts, and their management, with a focus on terminology resources and interoperability across the globe and communities of practice.

As a proponent of open standards, ES has adopted a patent policy in EFD 103:2026 to align IPR practice with major international standardization bodies including ISO, IEC and ITU.

0.2 Purpose

This document describes guidelines for the implementation of the ES patent policy specified in EFD 103:2026 in the standardization and publication processes described in EFD 101:2026.

The intent of this document is to:

— encourage the early disclosure and identification of patents during the standardization and publication processes;

— resolve potential patent concerns and rights problems relevant to the standardization and publication processes.

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Enosema Directive: Guidelines for the implementation of the Enosema patent policy

1 Scope

This document provides guidelines on the application of the ES patent policy (EFD 103:2026) towards the following areas of ES:

— standardization and publication process (described in EFD 101:2026);

— document requirements (described in EFD 102:2026).

This document does not cover the implementation of requirements in ES standards which involve intellectual property rights (such as patents).

2 Normative references

The following documents are referred to in the text in such a way that some or all of their content constitutes requirements of this document. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies.

EFD 101:2026, *Enosema Directive: Standardization and publication*

EFD 102:2026, *Enosema Directive: Standard document requirements*

EFD 103:2026, *Enosema Directive: Patent policy*

3 Terms, definitions and abbreviated terms

For the purposes of this document, the following terms and definitions apply.

ISO and IEC maintain terminology databases for use in standardization at the following addresses:

— ISO Online browsing platform: available at https://www.iso.org/obp

— IEC Electropedia: available at https://www.electropedia.org

3.1
declaration form
"Patent Statement and Licensing Declaration Form" as stated in Annex A

3.2
contribution
content submitted to ES for consideration as part of an ES standardization deliverable

3.3
free of charge
patent holder (3.6) will not seek any monetary compensation as part of the licensing arrangement (whether such compensation is called a royalty, a one-time licensing fee, etc.); patent holder is still entitled to require that the implementer of the relevant ES standardization deliverable sign a license agreement that contains other reasonable terms and conditions (such as those relating to governing law, field of use, warranties, etc.); does not indicate that the patent holder is waiving all of its rights with respect to a patent, but only on the issue of monetary compensation

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3.4
patent
claims contained in and identified by patents, utility models and other similar statutory rights based on inventions (including applications for any of these) solely to the extent that any such claims are essential to the implementation of an ES standardization deliverable

3.5
essential patent
patent (3.4) is essential to implement a specific ES standardization deliverable

3.6
patent holder
person or entity that owns, controls and/or has the ability to license *patents* (3.4)

3.7
reciprocity
patent holder (3.6) shall only be required to license any prospective licensee if such prospective licensee will commit to license its patent(s) for implementation of the same relevant ES standardization deliverable *free of charge* (3.3) or under reasonable terms and conditions

3.8
patent declaration
notice or acknowledgement that a patent may cover the use of an ES standardization deliverable

Note 1 to entry: The patent statement and licensing declaration form provided in Annex A shall be used for all patent declarations for an ES standardization deliverable (see Clause 5).

3.9
patent information database
database containing patent information relating to ES standardization deliverables based on information provided to ES in the patent statement and licensing declaration

3.10
technical body
technical committees and any other groups that manage development of ES standardization deliverables

3.11 Abbreviated terms

IPR	Intellectual Property Rights
TCB	Technical Coordination Board

4 Patent disclosure

4.1 General

This clause describes the principles of disclosure of patents that may affect ES standardization deliverables produced by ES.

This clause applies to any patent disclosed or drawn to the attention of ES during the development of and subsequent to the approval of deliverables.

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4.2 Requirements

4.2.1 Participation obligation

All parties participating in the standardization activities of ES are obligated to inform ES of any known patent or to any known pending patent application, either its own or that of other entities, as mandated by EFD 103:2026, Clause 4, where such parties include recipients of a draft ES standardization deliverable at any stage.

4.2.2 Early disclosure

Patent information should be disclosed as early as possible during the development of the deliverable.

Such patent information should be provided in good faith and on a best effort basis. There is no requirement for patent searches. At times, this might not be possible when the first draft text appears, for example, because the text might be still too vague.

4.2.3 External-originating disclosure

Parties not participating in the standardization activities of ES may also inform ES to any known patent, either their own and/or of any third-party, that may cover an ES deliverable.

4.3 Method of disclosure

4.3.1 Declaration form

When disclosing their own patents, patent holders shall fill in the “Patent Statement and Licensing Declaration Form” (referred to as the “declaration form”) as stated in Annex A.

4.3.2 Third-party patent disclosure

Any communication drawing the attention to any third-party patent should be addressed to ES in writing.

The President of ES will then request the potential patent holder to submit a declaration form, if applicable.

4.4 Resolution to unwillingness to license

Whether the identification of the patent took place before or after the approval of a deliverable, if a patent holder is unwilling to license under EFD 103:2026, 5.2 or EFD 103:2026, 5.3, ES will promptly advise the project owner(s) responsible for the affected deliverable so that appropriate action can be taken.

Such action shall include, but may not be limited to:

— a review of the ES standardization deliverable or its draft in order to remove the potential conflict; or

— to further examine and clarify the technical considerations causing the conflict.

These guidelines also apply to any Patent disclosed or drawn to the attention of ES subsequent to the approval of a deliverable.

5 Patent statement and licensing declaration form

5.1 Purpose

The patent statement and licensing declaration form (see Annex A) is provided for entities with information on how essential patents affect ES deliverables (such as, patent holders) to provide consistent, accurate information in the ES patent information database.

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5.2 Procedure

Entities shall report patent information to ES using the ES patent declaration form, which is available on the ES website (see Annex A).

The completed declaration form should be directly submitted to the designated contact provided on the form.

The declaration form also allows patent holders to make a licensing declaration relative to rights in patents required for implementation of a specific deliverable.

5.3 Declaration of patent license

Specifically, by submitting this declaration form, the submitting party declares, in accordance with the ES patent policy, patents held by it and whose licence would be required to practice or implement part(s) or all of a specific deliverable:

a) its willingness to license (by selecting option 1 or 2 on the Form); or

b) its unwillingness to license (by selecting option 3 on the Form).

5.4 Additional information required due to unwillingness to license

If a patent holder has selected the licensing option 3 on the declaration form, then, for the referenced relevant ES deliverable, ES requires the patent holder to provide certain additional information permitting patent identification.

Multiple declaration forms are appropriate if the patent holder wishes to identify several patents and classifies them in different options of the declaration form for the same deliverable or if the patent holder classifies different claims of a complex patent in different options of the declaration form for the same deliverable.

Information contained in a declaration form may be corrected in case of obvious errors, such as a typographical mistake in a standard or patent reference number.

5.5 Superseding license declarations

The licensing declaration contained in the declaration form remains in force unless it is superseded by another declaration form containing more favorable licensing terms and conditions from a licensee's perspective reflecting:

a) a change in commitment from option 3 to either option 1 or option 2;

b) a change in commitment from option 2 to option 1; or

c) un-checking one or more sub-options contained within option 1 or 2.

5.5.1 Contact information

In completing the declaration form, attention should be given to supplying contact information that will remain valid over time:

— "Name", "Department" and "E-mail addresses" should be generic.

— A single point of contact for a particular submitting party is preferred if multiple declaration forms are submitted (particularly for multinational organizations).

For maintaining the currency of information in the ES patent information database, the patent declarer is urged to directly contact ES on any change or corrections to declaration forms submitted, especially on the change of contact points.

5.6 Conduct of meetings

Early disclosure of patents contributes to the efficiency of the process by which deliverables are established.

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Therefore, each technical body, in the course of the development of a proposed deliverable, will request the disclosure of any known patents essential to the proposed deliverable.

The leadership of technical body will, ask at an appropriate time in each meeting, whether anyone has knowledge of patents, the use of which may be required to practice or implement the deliverable being considered. The fact that the question was asked shall be recorded in the meeting report, along with any affirmative responses.

As long as ES has received no indication of a patent holder selecting EFD 103:2026, 5.4, the deliverable may be approved with normal procedure. It is expected that discussions in technical bodies will include consideration of including patented material in a deliverable, however the technical bodies may not take position regarding the essentiality, scope, validity or specific licensing terms of any claimed patents.

5.7 Patent information database

In order to facilitate both the standards-making process and the application of deliverables, ES makes available to the public a patent information database composed of information that was communicated to ES by the means of declaration forms.

The patent information databases may contain information on specific patents, or may contain no such information but rather a statement about compliance with the patent policy for a particular deliverable.

The patent information databases are not certified to be either accurate or complete, but only reflect the information that has been communicated to ES.

As such, the patent information databases may be viewed as simply raising a flag to alert users that they may wish to contact the entities who have communicated declaration forms to ES in order to determine if patent licenses must be obtained for use or implementation of a particular deliverable.

5.8 Assignment or transfer of patent rights

The rules governing the assignment or transfer of patent rights are contained in the patent statement and licensing declaration forms (see Annex A).

By complying with these rules, the patent holder has discharged in full all of its obligations and liability with regards to the licensing commitments after the transfer or assignment.

These rules are not intended to place any duty on the patent holder to compel compliance with the licensing commitment by the assignee or transferee after the transfer occurs.

6 Requirements on deliverables

6.1 Draft deliverables

All drafts submitted for comment shall include on the cover page the following text:

> Recipients of this draft are invited to submit, with their comments, notification of any relevant patent rights of which they are aware and to provide supporting documentation.

6.2 Notification

A published document for which no patent rights are identified during the preparation thereof shall contain the following notice in the foreword:

> Attention is drawn to the possibility that some of the elements of this document may be the subject of patent rights. ES [and ISO] [and IEC] shall not be held responsible for identifying any or all such patent rights.

A published document for which patent rights have been identified during the preparation thereof shall include the following notice in the introduction:

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The Enosema Foundation (ES) [and The International Organization for Standardization (ISO)] [and The International Electrotechnical Commission (IEC)] draws attention to the fact that it is claimed that compliance with this document may involve the use of a patent concerning (… subject matter …) given in (… subclause …).

ES [and ISO] [and IEC] take[s] no position concerning the evidence, validity and scope of this patent right.

The holder of this patent right has assured ES [and ISO] [and IEC] that he/she is willing to negotiate licences under reasonable and non-discriminatory terms and conditions with applicants throughout the world. In this respect, the statement of the holder of this patent right is registered with ES [and ISO] [and IEC]. Information may be obtained from:

name of holder of patent right …

address …

Attention is drawn to the possibility that some of the elements of this document may be the subject of patent rights other than those identified above. ES [and ISO] [and IEC] shall not be held responsible for identifying any or all such patent rights.

6.3 Collaborative developed deliverables

Patent declarations in joint deliverables between ES and other organizations apply only to the specific documents indicated in the declaration forms. Declarations do not apply to documents that are altered (such as through adoption).

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Annex A
(normative)

Patent statement and licensing declaration for ES deliverables

This declaration does not represent an actual grant of a license.

Definitions of terms used in this declaration are in accordance with EFD 104.

Please submit this form to:

President
Enosema Foundation
2885 Sanford Ave Sw Suite 32361
Grandville MI 49418-1342
United States of America
Email: patents@enosema.org

A.1 Terms and definitions

free of charge	patent holder will not seek any monetary compensation as part of the licensing arrangement (whether such compensation is called a royalty, a one-time licensing fee, etc.); patent holder is still entitled to require that the implementer of the relevant ES standardization deliverable sign a license agreement that contains other reasonable terms and conditions (such as those relating to governing law, field of use, warranties, etc.); does not indicate that the patent holder is waiving all of its rights with respect to a patent, but only on the issue of monetary compensation
patent	claims contained in and identified by patents, utility models and other similar statutory rights based on inventions (including applications for any of these) solely to the extent that any such claims are essential to the implementation of an ES standardization deliverable
essential patent	patent is essential to implement a specific ES standardization deliverable
patent holder	person or entity that owns, controls and/or has the ability to license patents
reciprocity	patent holder shall only be required to license any prospective licensee if such prospective licensee will commit to license its patent(s) for implementation of the same relevant ES standardization deliverable free of charge or under reasonable terms and conditions
assignment/ transfer of patent rights	licensing declarations made pursuant to EFD 103:2026, 5.2 or EFD 103:2026, 5.3 shall be interpreted as encumbrances that bind all successors-in-interest as to the transferred patents. Recognizing that this interpretation may not apply in all jurisdictions, any patent holder who has submitted a licensing declaration according to EFD 103:2026 — be it selected as a) or b) on the "Patent statement and licensing declaration for ES deliverables" — who transfers ownership of a patent that is subject to such licensing declaration shall include appropriate provisions in the relevant transfer documents to ensure that, as to such transferred patent, the licensing declaration is binding on the transferee and that the transferee will similarly include appropriate provisions in the event of future transfers with the goal of binding all successors-in-interest

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A.2 Patent Holder

Legal Name _____

A.3 Contact for license application

Name & Department _____

Address _____

Tel. _____

Fax _____

E-mail _____

URL (optional) _____

A.4 Document type

a) [ ] ES Standardization Deliverable

b) [ ] ES co-published Standardization Deliverable (please return this form to ES and the appropriate form to the co-publishing parties)

A.5 Patent information

Number _____

Title _____

A.6 Licensing declaration

The patent holder believes that it holds granted and/or pending applications for patents, the use of which would be required to implement the above document and hereby declares, in accordance with the ES patent policy (see EFD 103:2026), that (check one option only):

a) [ ] The patent holder is prepared to grant a free of charge license to an unrestricted number of applicants on a worldwide, non-discriminatory basis and under other reasonable terms and conditions to make, use, and sell implementations of the above document.

   1) [ ] Also mark here — if the patent holder's willingness to license is conditioned on reciprocity for the above document.

   2) [ ] Also mark here — if the patent holder reserves the right to license on reasonable terms and conditions (but not free of charge) to applicants who are only willing to license their patent, whose use would be required to implement the above document, on reasonable terms and conditions (but not free of charge).

b) [ ] The patent holder is prepared to grant a license to an unrestricted number of applicants on a worldwide, non-discriminatory basis and on reasonable terms and conditions to make, use and sell implementations of the above document.

   1) [ ] Also mark here — if the patent holder's willingness to license is conditioned on reciprocity for the above document.

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c) [ ] The patent holder is unwilling to grant licenses in accordance with provisions of either options a) or b) above.

In this case, the following information must be provided to ES as part of this declaration:

— granted patent number or patent application number (if pending);

— an indication of which portions of the above document are affected;

— a description of the patents covering the above document.

A.7 Patent Information

Preferred but not required for options a) and b). Required for c).

Table A.1 — Patent information form

No.	Status [granted/ pending]	Country	Granted patent number or application number (if pending)	Title
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

[ ] Check here if additional patent information is provided on additional pages.

NOTE For option c), the additional minimum information that shall also be provided is listed in that option.

A.8 Signature (include on final page only)

Patent Holder _____

Name of authorized person _____

Title of authorized person _____

Signature, Place, Date _____

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Bibliography

[1] ISO/IEC/ITU common patent policy, *ISO/IEC/ITU common patent policy*, https://isotc.iso.org/livelink/livelink/fetch/2000/2122/3770791/Common_Policy.htm

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Making meaning meaningful