

**Public Comment for Proposed revisions to the ANSI Essential Requirements (December 6, 2019)**

Richard J. Martin, PhD, PE, CFI

President and Principal Engineer – Martin Thermal Engineering, Inc.

I have a comment on Footnote 3, which was distributed as follows:

- Footnote3: Further interest categories that may be used to categorize directly and materially affected persons consist of, but are not limited to, the following: a) Consumer; b) Directly affected public; c) Distributor and retailer; d) Industrial/commercial; e) Insurance; f) Labor; g) Manufacturer; ~~h) Professional society~~; i) Regulatory agency; j) Testing laboratory; ~~k) Trade association~~.

My comment is as follows:

- The NFPA list of interest categories is given at <https://www.nfpa.org/Codes-and-Standards/Standards-development-process/Technical-Committees/Classification-of-Committee-members> and includes:
  - **Manufacturer (M):** A representative of a maker or marketer of a product, assembly, or system, or portion thereof, that is affected by the standard.
  - **User (U):** A representative of an entity that is subject to the provisions of the standard or that voluntarily uses the standard.
  - **Installer/Maintainer (I/M):** A representative of an entity that is in the business of installing or maintaining a product, assembly, or system affected by the standard.
  - **Labor (L):** A labor representative or employee concerned with safety in the workplace.
  - Applied Research/Testing Laboratory (R/T): A representative of an independent testing laboratory or independent applied research organization that promulgates and/or enforces standards.
  - **Enforcing Authority (E):** A representative of an agency or an organization that promulgates and/or enforces standards.
  - **Insurance (I):** A representative of an insurance company, broker, agent, bureau, or inspection agency.
  - **Consumer (C):** A person who is or represents the ultimate purchaser of a product, system, or service affected by the standard, but who is not included in (2).
  - **Special Expert (SE):** A person not representing (1) through (8), and who has special expertise in the scope of the standard or portion thereof.
- Here is a table I generated that compares the two lists:

Item	NFPA List	Item	ANSI List
1	Consumer	1	Consumer
2	Enforcer	2	Directly Affected Public
		3	Distributor/Retailer
3	Installer/Maintainer		
4	Insurance	4	Insurance
5	Labor	5	Labor
6	Manufacturer	6	Manufacturer
		7	Regulatory Agency
7	Research/Testing	8	Testing Laboratory
8	Special Expert		
9	User	9	Industrial/Commercial

- If I perform a cross-check between the ANSI list and the NFPA list, the following ***inconsistencies*** are observed.
  - ANSI excludes “Enforcing Authority” whereas NFPA excludes “Directly Affected Public”.
    - *Comment #1: Enforcing Authority (e.g., fire marshal, building code official, etc.) is more likely to have a budget to participate than an ordinary member of the Public, although perhaps the either category could incorporate the other by citation or reference.*
  - NFPA excludes “Distributor/Retailer” whereas ANSI excludes Installer/Maintainer.
    - *Comment #2: Both of these functions are part of the “Chain of Commerce” that begins with product designers and raw material extractors and passes through supply chain component producers, product manufacturers and on to the end users. By being part of the chain of commerce, an obvious possibility exists wherein multiple entities in the chain have partially overlapping or fully consistent interests regarding the natural tension between profitability and safety – and the interests of committee members in these categories could align in opposition to safety.*
    - *Comment #3: Installers and Maintainers perform actions that may introduce new safety hazards into the chain of commerce, whereas Retail and Distribution entities may increase hazards by employing inaccurate advertising or selling tactics. As such, Installers would tend to break ranks with manufacturers than Retailers, and such independence could more greatly benefit the committee’s balance.*
    - *Comment #4: It is noteworthy that both lists (NFPA and ANSI) have dual entries for “seller” (Manufacturers plus either Retailers or Installers) and dual entries for “buyer” (Consumers plus either Users or Industrial). This duality imposes a natural balance of competing interests, which is good and appropriate. However, Consumers are far less likely to have the wherewithal and financial support to participate in standards development activities than any of the other three categories (Industrial+User, Retail+Installer, Manufacturer). The exception of course is consumer advocacy groups such as Good Housekeeping, but even their clout and mission are limited. Thus, the balance of interests on either an ANSI or NFPA committee has a slight bias in favor of the “seller” category and in opposition to the “buyer” category.*
  - NFPA excludes “Regulatory Agency” whereas ANSI excludes “Special Expert”.
    - *Comment #5: Both of these functions are ostensibly neutral with respect to the tension between buyers and sellers – as long as “special experts” are appropriately limited to academics and independent consultants who aren’t effectively mouthpieces hired to exclusively represent a buyers’ alliance or a sellers’ alliance. ANSI makes this requirement explicit (by excluding the special expert category in its entirety) and NFPA makes it implicit (by requiring special experts to disclose such financial ties as part of the interest determination process).*
    - *Comment #6: Regulatory Agencies are sometimes included as “non-voting” members on ANSI committees, and it would seem such a designation strips away their ability to counter-balance opposing interests. For ANSI to designate*

*Regulatory as an interest category, and for an ANSI-accredited SDO<sup>1</sup> to exclude such individuals from voting seems to be counter-productive. Furthermore, it is almost unimaginable that this category could ever have more than one member on a committee – voting or nonvoting.*

- Therefore, I make the following recommendations regarding this proposed new language in ANSI's governing documents:
  - ***ANSI should explicitly incorporate "Enforcers" into the "Public" category.***
  - ***ANSI should eliminate the Distribution/Retail category and replace it with the Installer/Maintainer category.***
  - ***ANSI should eliminate the Regulator category and replace it with the Special Expert category, while explicitly noting that committee members are only permitted to be categorized as Special Experts if they can demonstrate their financial interests don't reflect a bias toward any of the other categories. Such demonstration could constitute a declaration of annual income percentage from the Manufacturer, Industrial, Consumer, Installer/Maintainer, Insurance, Academic fields with none representing more than 40% of the total.***
  - ***ANSI should acknowledge that Regulators are invited to participate on any ANSI sanctioned committee but are not permitted to participate as voting members.***

Disclosure: The author is a long-time volunteer on two NFPA technical committees (OVE-AAA and FLU-AAA) but has never been a representative of NFPA and doesn't speak for NFPA. He has volunteered for brief periods on other technical committees associated with ASTM and IKECA.

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<sup>1</sup> Standards Development Organization