



International Code Council
500 New Jersey Avenue, NW
Sixth Floor
Washington, DC 20001
t: 888.ICC.SAFE (422.7233);
t: 202.370.1800
f: 202.783.2348
www.iccsafe.org

November 18, 2022

ANSI Executive Standards Council
c/o Anne Caldas
Secretary, ANSI Executive Standards Council
25 West 43rd Street, 4th Floor
New York, NY 10036

Via E-mail: psa@ansi.org

Re: Public Comment on Proposed Revisions to the *ANSI Essential Requirements: Due process requirements for American National Standards*

The International Code Council, Inc. (“ICC”) submits the following comments in response to the ANSI Standards Action, October 7, 2022, ExSC_055_2022, *Draft Proposed Revisions to Audited Designator Procedures Section 5.0 of the ANSI Essential Requirements*.

For decades, ICC has been a leading developer of model codes and standards for the built environment. ICC is dedicated to helping communities and the building industry provide safe, sustainable, and affordable construction through the development of model codes and standards used in design, construction, and compliance processes. ICC has over 64,000 members from more than 38 countries representing stakeholders throughout the construction industry. The International Codes (“I-Codes”) are essential to the U.S. construction industry which is valued at \$1.6 trillion and accounts for roughly 4.3% of U.S. GDP. Approximately 7.5 million people are employed by the construction industry, or nearly 5% of the U.S. workforce.

The I-Codes are the most widely accepted, comprehensive set of model codes used in the United States. All fifty states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam and many countries have adopted the I-Codes at the state or local level. Adoption of the I-Codes is essential to nearly every manufacturer in the building and construction market segment that rely on standardization. In 2022, the global construction materials market is estimated at roughly \$1.8 trillion. The I-Codes facilitate the adoption and use of over 2000 ANS and non-ANS standards, developed by more than 150 standard development organizations.

ICC has long engaged with ANSI as a trusted partner in the standards development process. Our first ANS standard, ICC/ANSI A117, Standard for Accessible and Usable Buildings and Facilities, was developed in 1961 and has protected millions of Americans with disabilities as the national compliance tool for the Fair Housing Act’s accessibility requirements for the design and construction of buildings. ANSI approved the most recent version of ICC’s Consensus Procedures for the development of standards in April 2020. This current version provides ICC with a streamlined method to develop standards in a time efficient manner.

We hope this background demonstrates our long-time engagement with ANSI and our appreciation for the many SDOs that contribute to its work. ANSI's success is rooted in the quality and impartiality of the processes that it administers. ICC is concerned that two provisions within the ExSC's October 7, 2022 proposed revisions to ANSI's Audited Designator requirements risk the appearance of undermining these vital attributes.

ICC's comments on the proposed changes to ANSI's Audited Designator requirements center on two provisions: (1) raising the threshold from 10 to 75-100 ANS, and (2) the exception from the "strict application" of the new requirements for existing Audited Designators.

We think it is important for the ExSC to know that ANSI Audited Designator Status has been raised in contexts outside the ANS development process. On June 28, 2022 the U.S. House Appropriations Subcommittee on Financial Services and General Government (FSGG) published FY2023 Appropriations Committee Report, which included language proposed by IAPMO that would direct GSA to provide preferential consideration to plumbing standards developed by Audited Designators. More specifically, the language would instruct GSA, which presently adopts ICC's International Plumbing Code, to "evaluate additional codes and standards, including those that have achieved American National Standard Institute (ANSI) designation, or were developed by an ANSI Audited Designator, to better align with the intent of Federal policy on the use of codes, standards, and directives" This language offers preferential treatment to IAPMO.

Less than three months later, on October 7, 2022, the ExSC put forward the *Draft Proposed Revisions to Audited Designator Procedures Section 5.0 of the ANSI Essential Requirements*. ICC understands that, as a member of the ExSC, IAPMO was permitted to participate in the genesis and development of these proposed revisions.

Over the past five years, ICC has had at least 10 standards approved by the ANSI Board of Standards Review, which is consistent with the existing threshold of 10 required ANS. The proposed increase in required ANS from 10 to 75-100 sets a threshold that ICC will be unable to meet in the near term, yet captures IAPMO's number of ANS standards. Every other Audited Designator has dozens of additional ANS. Our concern is that this range could appear to have been set to accommodate the Audited Designator with the fewest ANS and to preclude others, including ICC, as opposed to being determined based on objective criteria.

We are concerned about the proposal that Audited Designators "who received an Audited Designator status prior to the adoption of the 202x amended procedures contained in this section shall be exempted from the strict application of the criteria set forth in section 5.2." ICC understands that five of ANSI's six current Audited Designators serve on ExSC that developed these proposed revisions.

Ultimately, given the advancement of federal policy proposals to provide competitive advantages to Audited Designators, ICC does not believe either of the two above-described revisions to ANSI's Audited Designator policy should be advanced at this time. Further,

although Audited Designators will not vote on final changes, ICC believes that it is critical that no existing Audited Designators should play a role in the proposal and development of current and future revisions to the Audited Designator process through the ExSC. To do otherwise risks the appearance of self-dealing, something we are confident that ANSI and every member of the ExSC would not condone.

To ensure these issues are addressed and do not persist so as to hinder the ExSCs important work, ICC encourages ANSI and the ExSC to conduct an independent audit of the genesis and rationale of all of the proposed revisions with the audit's results to be provided to ANSI's membership. Which organizations suggested the proposed revisions were necessary? What rationale was provided for each? It is our understanding that the ExSC has not added a new Audited Designator for many years. Why are changes to increase the bar to entry being proposed at this time? How many Audited Designator applications were received, approved, and denied in the last five years? What was the number of ANS for those that were denied?

ICC has the utmost respect and appreciation for the hard work the ExSC's members advance on behalf of the standards community. ICC looks forward to the results of the above-proposed audit and the opportunity to work with the ExSC and ANSI to ensure that it continues to facilitate high-quality processes.

Thank you for the opportunity to provide comments. If you have any questions concerning ICC's recommendations, please do not hesitate to me.

Sincerely,

Mel Oncu
ICC General Counsel
moncu@iccsafe.org