

AEM Comments on ExSC_033_2019_CTC_SA_030191

RATIONALE FOR AEM PROPOSAL: Manufacturers of products in the US typically provide a manual(s) and other safety materials to support the safe use of their products. These manuals and other safety materials are referred to in many ANSI safety standards as an essential element for the safe use of products.

The ANSI ExSC (Executive Standards Council) proposal, which was published in ANSI's Standards Action newsletter on [March 01, 2019](#), proposed changes to 2018 ANSI Essential Requirements document, clause 3.2. The proposed changes to the ANSI's Essential Requirements document are being interpreted by our product safety experts as prohibiting an ANSI American National Standard (ANS) from including requirements for 1) a manufacturer to supply an operator's manual or other safety-related materials for each product and 2) that someone who takes possession of a product would not be required to read and understand manufacturer's operator's manual or safety related materials, to be in compliance with the ANSI standard.

When brought to AEM's attention, AEM staff and members of AEM's Manufacturers of Elevating Work Platforms Council (MEWPC) Engineering Committee began to review the ANSI ExSC proposal and have since prepared their proposed changes to the ANSI proposal as well as provided a rationale as to why the ANSI proposed changes will significantly lower the level of safety that ANSI standards developers work hard to include in their standards to make products safer and users more aware of hazards associated with the use of these products.

In discussions with ANSI staff, AEM staff pointed out the points noted above, but ANSI staff indicated that the intent of their changes was simply to clarify one clause and not to reduce the level of safety. We strongly disagree on this point and want to make sure that any changes are clear, concise, are not subject to interpretation and do not diminish the level of safety in ANSI standards, so we have provided our proposed edits below.

Text with proposed ANSI revisions incorporated - ExSC 033 2019:

3.2 Commercial terms and conditions

Except as otherwise permitted by these Essential Requirements, ANS shall not include terms or conditions that are purely commercial in nature, such as contractual requirements (3.2.1); endorsements of brand-name or proprietary products or services (3.2.2); or use of particular conformity-assessment bodies, testing facilities or training organizations (3.2.3).

3.2.1 Contractual Requirements

Except as provided below, ANS shall not contain contract terms relating to the use of particular products or services such as guarantees warranties, indemnities, buybacks, and the like.

3.2.2 Endorsements of Products or Services

ANS shall not endorse, or require the purchase or use of, brand-name or proprietary products or service providers as a condition of implementing the standard. For example, an ANS may

not endorse or require the purchase or use of brand-name tools or components, copyrighted user manuals, labels or licenses. Nor may an ANS include manufacturer lists, service provider lists, and the like.

However, where a sole source exists for products or services necessary to comply with the standard, it is permissible to supply the name and address of the source in a footnote as long as the source is reasonably available and the words "or the equivalent" are added to the reference.

3.2.3 Conformity Assessment, Testing and Training

In connection with ANS 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.

Where a sole source exists for products or services necessary to determine compliance with the standard, it is permissible to supply the name and address of the source in a footnote as long as the source is reasonably available and the words "or the equivalent" are added to the reference.

It is permissible for health, safety or environmental protection reasons to include a generic requirement for third-party, *i.e.*, independent, conformity assessment, testing or training. It is also permissible to provide a reference to a website listing third-party conformity-assessment bodies, testing facilities or training organizations as long as the words "or the equivalent" are added to the reference and any such reference does not appear as an endorsement. ANS shall not dictate the use or non-use of a particular conformity-assessment body, testing facility or training organization.

AEM Proposed Edits to ANSI Proposal:

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ANS shall not endorse, or require the purchase or use of, brand-name or proprietary products or service providers as a condition of implementing the standard. For example, an ANS may not endorse or require the purchase or use of brand-name tools or components, copyrighted user manuals, labels or licenses. Materials essential for the safe use of the equipment – including but not limited to user or operating manuals and labels supplied by the equipment

manufacturer or service provider – whether copyrighted or not, shall be exempted from this requirement. ~~Nor may an~~ An ANS shall not include manufacturer lists, service provider lists, and the like.

However, where a sole source ~~exists~~ is referenced for products or services necessary to comply with the standard, it is permissible to supply the name and address of the source in a footnote as long as the source is reasonably available and the words “or the equivalent” are added to the reference. In such cases, copyright or patents shall not prohibit the ability of an equivalent product or service to be utilized.

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