

[NSC LETTER TO ANSI](#) -

October 29, 2003

Ms. Anne Caldas
Secretary
ANSI Executive Standards Council
25 West 43rd Street
New York, NY 10036

Dear Ms. Caldas:

On October 7, 2003, the National Safety Council (NSC) received official notification of the decision of the American National Standards Institute (ANSI) Executive Standards Council (ExSC) Appeals Panel (hereafter the "ANSI Appeals Panel"). The decision represented a response to an appeal by the National Coalition on Ergonomics and others of the ExSC's decision to reaccredit the Accredited Standards Committee Z365 (hereinafter referred to as "the Committee") with the NSC as Secretariat.

The decision of the ANSI Appeals Panel requires that in order for the Committee to maintain its accreditation with the NSC as the Secretariat, the NSC must undertake a number of additional administrative burdens which have significant financial and administrative consequences. Given these new obligations the NSC, after considerable deliberations, believes that it has no other viable option and, by this letter, formally surrenders its role as Secretariat to the Committee.

This decision comes only after much thoughtful consideration by the leadership of the NSC and its Board of Directors. However, the additional financial, time, and resource burdens on the NSC which would be required as a condition of continuing as Secretariat have exacerbated a difficult situation and made the further involvement of the NSC as Secretariat untenable.

It is important to set forth the full background of this process to dispel any concern that the NSC has not been diligent in fulfilling its responsibilities. In its Secretariat role the NSC expended substantial resources, time, money, and leadership in support of the Committee's work. The NSC has spent more than \$531,000 in staff resources and expenses alone. It engaged, at its own expense, independent program experts (from business, labor, and government) to provide input regarding the fairness of the process, an expert on ANSI procedural matters, and an expert in Roberts' Rules of Order to ensure fairness and adherence to ANSI principles and procedures. The NSC believes such expenditures are unprecedented by an organization acting as a Secretariat for a single standard.

In February 2002, the Board of Directors of NSC, appropriate to its responsibility, again reviewed the NSC's role with the Committee. Based on the expenditures that had been committed to that point and the uncertainty of time and resource commitments necessary to complete the Committee's work, the Board instructed the NSC leadership to proceed with divesting itself as Secretariat of the Committee.

The NSC leadership discussed this with the Committee leadership and with various stakeholders. The NSC engaged in an extensive search to determine if other organizations might have an interest in taking on the Secretariat role. No party expressed any interest in assuming such a role. However, the Committee felt at that time that it could complete its work by the end of 2002. Thus, the NSC leadership returned to its Board and received approval to continue its role as Secretariat conditioned on the projected completion date of December 2002.

The Committee completed its work, the proposed final draft standard was made available, and interested parties were appropriately notified of the final draft standard in December 2002. This resulted in the NSC receiving a number of appeals in January 2003. These appeals were extensive and included: 1) technical issues that had been previously raised and resolved by the Committee; 2) issues related to the formation of the Committee 13 years earlier; and 3) procedural issues that spanned the entire history of the Committee.

The Committee had also approved certain changes to its bylaws concerning the handling of appeals to action taken by the Committee. The bylaw changes were submitted to ANSI for public notification on October 9, 2002.

The Committee and the NSC as Secretariat were committed to review and respond in detail to these appeals of the proposed standard. As required by ANSI procedures, there was an attempt to informally resolve these appeals. The NSC met with representatives of some of the appellants in February 2002. However, the NSC provided written notice to the appellants that review of the appeals would take longer than expected. At that time the issue of the changes to the bylaws was still outstanding. It would have been impractical to go forward with the appeal hearings until the issue of the change in bylaws was resolved. The requested bylaw changes would enable the NSC to group appeals and to collect fees from the appellants to defray a portion of the significant costs associated with the appeals. The NSC could not prudently conduct any appeals until ANSI ruled on those bylaw changes. Had the NSC conducted such appeals, the outcome could likely have been challenged had they been conducted in a manner inconsistent with the subsequent ruling of the ANSI ExSc.

All public comments surrounding the bylaws were resolved and the changes were submitted to ANSI in May 2003. On June 24, 2003, the ExSC notified the NSC that the ASC Z365 proposed bylaws had been approved by the ANSI ExSC.

The National Coalition on Ergonomics, et. al. filed an appeal of that ExSC decision on July 8, 2003. The ANSI ExSC immediately scheduled an appeal hearing on this matter. The NSC, as the Committee Secretariat, believes it would have been inappropriate, indeed wasteful, to schedule an appeal hearing of the original January appeals while changes to the bylaws dealing with appeals were pending, and subsequently while the decision on the bylaws ruling was under direct appeal to ANSI.

The ANSI Appeals Panel, in its decision, placed additional financial and time burdens on the NSC and the Committee. The panel would require that an appeal hearing on the January 2003 appeals be

scheduled and held within 60 days of the notice of its decision. This requirement is a practical impossibility. A panel of three individuals must be selected that includes two members agreeable to both parties. While the NSC has already tried to identify such individuals, it is clear to all who have followed this matter that finding and agreeing on such a panel is unrealistic, let alone scheduling and holding a hearing within 60 days. In addition, the ANSI Appeals Panel.

would require that before any standard developed by the Committee be considered by ANSI, the Committee must undergo a special audit of its entire 13-year history. While the NSC is confident that such an audit would confirm its exemplary stewardship of the Committee, the additional time and resource burdens placed on the NSC and the Committee would be unacceptable.

The NSC regrets that it has had to make this decision. However, it has a responsibility to its Board of Directors and stakeholders to utilize the limited resources of the NSC in the most effective ways consistent with its mission and Congressional Charter to promote health and protect life. The NSC and its Board of Directors have determined that it is not prudent to spend any more of its resources on this project.

Finally, and importantly, the NSC wants to take this opportunity to thank the more than 55 members of the Committee who come from all sectors of the safety and health community for their dedicated effort, sincere commitment, and many years of service to this effort.

Sincerely,

Alan C. McMillan
President, CEO
National Safety Council