



Amy Beasley Cronin
Secretary, Standards Council

13 August 2009

To: Interested Parties

Subject:

Standards Council Decision (Final):	D#09-12
Standards Council Agenda Item:	SC#09-8-7-b/09-8-7-c
Date of Decision*:	6 August 2009
NFPA 99, <i>Standard for Health Care Facilities</i> , 2010 edition	

Dear Interested Parties:

At its meeting of 4-6 August 2009, the Standards Council considered an appeal on the above referenced matter.

Attached is the final decision of the Standards Council on this matter.

Sincerely,

A handwritten signature in black ink that reads "Amy Beasley Cronin".

Amy Beasley Cronin
Secretary, Standards Council

- c: D. Berry, M. Brodoff, L. Fuller, R. Bielen, J. Moreau-Correia
Members, TCs (HEA-ELS, HEA-FUN, HEA-HES, HEA-HYP, HEA-MEC, HEA-MED,
and HEA-PIP)
Members, TCC on Health Care Facilities (HEA-AAC)
Members, NFPA Standards Council (AAD-AAA)
Individuals Providing Appeal Commentary

*NOTE: Participants in NFPA's codes and standards making process should know that limited review of this decision may be sought from the NFPA Board of Directors. For the rules describing the available review and the method for petitioning the Board for review, please consult section 1-7 of the NFPA Regulations Governing Committee Projects and the NFPA Regulations Governing Petitions to the Board of Directors from Decisions of the Standards Council. Notice of the intent to file such a petition must be submitted to the Clerk of the Board of Directors within 15 calendar days of the Date of Decision noted in the subject line of this letter.



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At its meeting of 4-6 August 2009, the Standard Council considered an appeal from Jan Ehrenwerth, M.D., of Yale University, representing the American Society of Anesthesiologists. The appeal requested that the Council reject the Association action to return the entire report of the 2010 edition of NFPA 99, *Standard for Health Care Facilities*, and that, instead, the Council issue the proposed 2010 edition.

As background, at the 2009 Association Technical Meeting (Tech Session), an amending motion to return the entire report of the 2010 edition of NFPA 99 was made, and was supported by the NFPA membership. Under NFPA rules, when the membership at the Tech Session votes to return a document to committee, the document should not be issued, but should go back for further processing in accordance with one of the available options set forth in the NFPA *Regulations Governing Committee Projects (Regs.)* at Section 4.4.7.3.

On appeal, the Standards Council accords great respect and deference to the NFPA codes and standards development process. In conducting its review, the Council will overturn the result recommended through that process only where a clear and substantial basis for doing so is demonstrated. In the case of an NFPA document that had been returned to Committee by the NFPA membership, it would be rare indeed for the Council to intervene. There is no doubt that, during this revision cycle, the Health Care Facilities committees have done extensive and valuable work in reorganizing and rewriting NFPA 99. Nevertheless the debate and vote of the membership at the Tech Session reflected the view that the document was not yet ready for issuance and that further work was needed. The record before the Council contains adequate support for that view, and the Council must, therefore, respect the outcome of the process. In particular, the Council notes that an informational ballot of the Health Care Facilities committees, while advisory only (see *Regs.* at Section 4.7.2[a]), and certainly not conclusive, showed significant support for the return to committee, including clear support for the return by the Technical Correlating Committee and three of the seven technical committees. Accordingly, after reviewing and considering all the information available to it, the Council voted to deny the appeal. This means that proposed 2010 edition of NFPA 99 shall not be issued and the existing edition shall remain in effect. See *Regs.* at Section 4.7.2(a).

There remains the question of further processing of NFPA 99. After considering the recommendation of TCC/TCs, the Council is directing that NFPA 99 should be entered into the Annual 2011 cycle and processed according to the option described in the *Regs.* at Section 4.4.7.3(c). Specifically, under this option, the document will be processed through a full revision cycle without a call for new public proposals. This requires the TCs to reconsider and act on all public proposals previously filed, generate any new TC proposals, and publish and prepare an amended Report on Proposals (ROP), followed by the processing of the new Report on Comments (ROC).