



Amy Beasley Cronin
Secretary, Standards Council

9 August 2010

To: Interested Parties

Subject:

Standards Council Decision (Final):	D#10-9
Standards Council Agenda Item:	SC#10-8-1-k/1
Date of Decision*:	5 August 2010
NFPA 70 [®] , <i>National Electrical Code</i> [®] , 2011 edition	

Dear Interested Parties:

At its meeting of 3-5 August 2010, 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, NFPA Standards Council

c: D. Berry, M. Brodoff, L. Fuller, M. Earley, J. O'Connor
Members, NEC Code-Making Panel4 (NEC-P04)
Members, TCC on National Electrical Code (NEC-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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SUMMARY ACTION: *The Standards Council voted to deny the appeals to delete Section 690.11 requiring arc-fault circuit interrupter protection for certain photovoltaic systems from the 2011 edition of NFPA 70, National Electrical Code[®]. The Council voted to also deny the appeal to add a delayed effective date for the new requirement of Section 690.11 or to make a revision concerning the voltage level.*

At its meeting of August 3-5, 2010, the Standards Council considered appeals from Matthias Haag and Thomas Schaupp of KACO New Energy, and Jurgen Krehnke of SMA Solar Technology America, LLC. The appeals concern the new text of Section 690.11 for the 2011 edition of NFPA 70, *National Electrical Code*[®], which requires arc-fault circuit interrupter (AFCI) protection for certain photovoltaic (PV) systems. The appeals request that the Council either remove Section 690.11 or, in the alternative, that the Council add a delayed effective date and make a revision concerning the voltage level.

As background, the requirement for AFCI protection for certain PV systems was submitted as Proposals 4-205 and 4-204 and was accepted and accepted in principle, respectively. Accepted Comment 4-83 made some revisions to conform the material to the Manual of Style. Comments 4-77, 4-80 and 4-81 sought to reject the new requirement and were both rejected. Comments 4-79 and 4-82 sought to introduce a delayed effective date, and both were rejected. No comments were submitted, however, that requested a delay in the effective date along the lines that the appellants appear to be requesting; namely, a delay of two years following the development of an appropriate UL listing standard.

In any event, none of the rejected Comments were subsequently pursued through the filing of an appropriate Notice of Intent to Make a Motion (NITMAM) for the 2010 Association Technical Meeting (Tech Session). The submission of NITMAMs followed by the making of amending motions at the Tech Session is an important part of the NFPA codes and standards development process. The making and debating of such motions allows the committees to reconsider their actions through the rebalotting of successful amending motions, and the debate of the NFPA membership provides an important addition to the record in the event of an appeal to the Standards Council. The appellants failed to do so, and now, having failed to take all of the necessary steps within the NFPA process to delete or revise the new provision or seek an extension of the implementation date, the appellant now brings these appeals.

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. Moreover, in circumstances such as these, where the appellants have failed to take advantage of all the steps available within the process, the Council is especially reluctant to consider overturning the results that have been yielded by that process.

The Council has reviewed the entire record concerning this matter and has considered all the arguments put forth in these appeals. In the view of the Council, these appeals do not present any clear and substantial basis on which to overturn the results yielded by the NFPA codes and standards development process. Accordingly, the Council has voted to deny the appeals. The effect of this action is that the text of the 2011 edition of the NEC will include the new text of Section 690.11 that requires AFCI protection for certain PV systems without a delayed effective date. While the Council appreciates the able presentation made to it by the appellants, the Council does not believe that it is appropriate for it to act without the issue having been fully considered within the codes and standards development process. If the appellants or others wish to address the issues they have raised on this appeal, they can do so in the regular document revision process, or if the issues are believed to be of an emergency nature, a Tentative Interim Amendment (TIA) can be submitted.

Council Chair James Pauley recused himself during the hearings, deliberations and vote on the issue. Council Member Ralph Gerdes wished to be recorded as voting negatively.