



Amy Beasley Cronin
Secretary, Standards Council

20 September 2011

To: Interested Parties

Subject:

Standards Council Decision (Final):	D#11-7
Standards Council Agenda Item:	SC#11-8-6-a and 11-8-6-c
Date of Decision*:	10 August 2011
NFPA 99, <i>Health Care Facilities Code</i> , 2012 edition	

Dear Interested Parties:

At its meeting of August 9-10, 2011, the Standards Council considered an appeal on the above referenced matter. On August 15, 2011, NFPA issued the Council's decision on the appeal in the form of a "Short" decision which briefly stated the outcome of the appeal and which indicated that a full Final Decision on the appeal would be issued in due course and sent to all interested parties as soon as it became available.

The Council's full Final Decision is now available and is attached herewith.

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, R. Bielen, J. Goyette, E. Carroll
Members, Technical Correlating Committee on Health Care Facilities (HEA-AAC)
Members, Technical Committee on Electrical Systems (HEA-ELS)
Members, National Electrical Code Correlating Committee (NEC- TCC)
Members, National Electrical Code Panel 13 (NEC-P13)
Members, National Electrical Code Panel 15 (NEC-P15)
Members, NFPA Standards Council (AAD-AAA)
Individuals Providing Appeal Commentary



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At its meeting of August 9-10, 2011, the Standards Council considered two appeals from Malcolm Allison from the National Electric Fuse Association (NEFA) on the 2012 edition of NFPA 99, *Health Care Facilities Code* as follows.

The first appeal requested that NFPA 99 be issued with the acceptance of Certified Amending Motion (CAM) 99-6, which sought to Return a Portion of a Report in the form of Proposals 99-39, 99-40 and 99-108 and related Comments 99-35, 99-36, 99-37, 99-123 and 99-124. Specifically, the CAM sought to return Section 4.4.2.2 to previous edition text and also return the following definitions to previous edition text: 3.3.26 Critical Branch, 3.3.29 Critical System, 3.3.41 Emergency System, 3.3.43 Equipment System, 3.3.96 Life Safety Branch, and 3.3.153 Quiet Ground.

As background on the first appeal, the Technical Committee on Electrical Systems (TC) and the Technical Correlating Committee on Health Care Facilities (TCC) accepted Committee Proposals 99-39, 99-40 and 99-108 which modified and deleted definitions and modified Section 4.4.2.2. Comments 99-35, 99-36, 99-37, 99-123 and 99-124 further modified the affected text. A Certified Amending Motion seeking acceptance of CAM 99-6 which sought to Return a Portion of a Report in the form of Proposals 99-39, 99-40 and 99-108 and related Comments 99-35, 99-36, 99-37, 99-123 and 99-124 was made at the 2011 Association Technical Meeting (Tech Session). The motion failed.

The second appeal requested that NFPA 99 be issued with the acceptance of CAM 99-10 (which is a Related Motion to CAMs 99-11 through 99-14) to accept Comment 99-115, which sought to reject Proposal 99-107 that would delete the three proposed new sections providing requirements for selective coordination.

As background on the second appeal, the TC and the TCC accepted Committee Proposal 99-107 that would add three proposed new sections (4.4.2.1.2, 4.5.2.1.1, 4.6.2.1.1 [renumbered as 6.4.2.1.2, 6.5.2.1.1 and 6.6.2.1.1 in the 2012 edition]) providing requirements for selective coordination. Comment 99-115 recommended rejection of Proposal 99-107 and was rejected by the TC and TCC. A CAM seeking acceptance of CAM 99-10 which sought to delete the three proposed new sections providing requirements for selective coordination was made at the 2011 Association Technical Meeting (Tech Session). The motion failed.

Both appeals request that the Council overturn the actions that were recommended by the NFPA codes and standards development process. This recommendation represents the

consensus judgment of the responsible TC and TCC, a judgment that was also supported by votes of the NFPA membership at the 2011 Tech Session. The appellant has had the opportunity to advocate his position at each stage of the process and failed at every stage to achieve acceptance of his positions. On appeal, the 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. The Council has reviewed the entire record concerning these matters and has considered all the arguments put forth in the 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 both appeals. The effect of these actions is that the proposed new edition of NFPA 99 is issued with the modifications approved by the TC and TCC with respect to the items in CAM 99-6, and the document is also issued with the three proposed new sections providing requirements for selective coordination with respect to the items in CAM 99-10.

Without attempting to review each argument that the Council has considered and rejected as part of this appeal, the Council wishes to make several points. First, underlying this appeal is disagreement over whether the selective coordination provisions that are the subject of the appeals are within the jurisdiction of the NFPA 99 committee project or within the jurisdiction of the National Electrical Code® (NEC®) committee project. The assignment of jurisdictional scopes among technical committee projects is the direct responsibility of the Standards Council. See, generally, NFPA *Regulations Governing Committee Projects (Regs)* at Section 3.1. In assigning jurisdictional responsibilities among NFPA committees, the Council seeks to maximize coordination and avoid overlap and conflict among NFPA codes and standards. The Council has been aware of coordination issues between the NEC and other NFPA documents with respect to performance requirements for the life safety branch, critical branch and equipment system for emergency systems. In previous Council Decision No. 07-6 (SC#07-7-5-1, July 27, 2007), the Council established the Intercommittee Coordination Task Group on Emergency Electrical Systems to study these issues. The task group has provided useful guidance and recommendations to the relevant technical committees and the Council. (See Standards Council Minute Item 10-3-21, March 2010). Based on the input of the task group and on its own independent assessment, the Council has no difficulty in concluding that the prevention of cascading outages (achieving selective coordination) is a performance requirement belonging to NFPA 99, not an installation requirement within the jurisdiction of the NEC. The NFPA 99 committees, therefore, had the authority to develop the selective coordination performance requirements that have been challenged on this appeal.

Second, the appellant has requested that the Council add new sections in NFPA 99 to clarify that any part of the essential electrical system or any of its branches must comply with the relevant Articles of the NEC. The text proposed was not presented to the TC or the TCC in any form, including as a proposal or comment, therefore, the Council will not

consider the new text. The Council notes, however, the new edition of NFPA 99, Section 6.3.2.1 reads as follows:

6.3.2.1 Electrical installation. Installation shall be in accordance with NFPA 70[®], *National Electrical Code*[®].

Accordingly, the Council believes that NFPA 99 sufficiently refers to NFPA 70[®], *National Electrical Code*[®], for issues relating to installation, and that this deference is sufficiently clear. There was also a request to remove the word “installation” from the Purpose of NFPA 99 in Section 1.2. Again, this deletion was not presented to the TC or the TCC in any form, including as a proposal or comment, and the Council, therefore, will not consider the new text. The Council notes, however, that the word “installation” only appears in the chapter scope of Chapter 5, Gas and Vacuum Systems, and does not appear in the Chapter 6, Electrical Systems. It is clear that the word “installation” applies to the installation of gas and vacuum systems, and not the installation of electrical systems.

Third, the appellant, in various ways seeks to challenge NFPA’s compliance with the American National Standards Institute (ANSI) Essential Requirements (ANSI Essential Requirements.) ANSI is the oversight body for U.S. voluntary consensus standards developers such as NFPA, and the NFPA *Regulations Governing Committee Projects (Regs)* are approved by ANSI as meeting the ANSI Essential Requirements. It is through adherence to those *Regs* that NFPA ensures that the principles of openness, fairness and balance reflected in the ANSI Essential Requirements are met. It is difficult to locate in the submissions and presentations of the appellant any provision of the *Regs* that he contends has been violated. The Council, in any event, has reviewed the entire record before it and has found no violation of the *Regs* or indeed any unfairness that would implicate the ANSI Essential Requirements.

For example, the appellant spends much effort suggesting improprieties in the composition and activities of the Task Group on Inter-committee Coordination on Emergency Electrical Systems and its sub-groups. It is not clear how the activities of the task group are directly relevant to the appeal. The task group was entirely advisory, it had no decision-making authority, and it was clearly not a consensus body as defined by ANSI. Task groups often contribute input to standards development and there is no requirement that task groups meet any particular requirements such as balance requirements. Cf. *Regs* Section 3.1.3.4 (task groups need not be balanced by interest). In any case, the decisions with which the appellant takes issue were made, not by any task group, but by the TC and TCC and now by this Council.

Fourth, the appellant sought to have the Council accept NEFA’s newly submitted application for membership on the Technical Committee on Electrical Systems (HEA-ELS) in the NFPA 99 project. As background, another NEFA nominee’s application for this TC was considered at the October 2008 Standards Council meeting, and was rejected by the Council because the interest NEFA represents has only a limited interest in the total scope of the TC. An in-person reconsideration of this and other NEFA applications was heard by the Council in March 2009, and the respective decisions on the various TC applications for several NFPA TCs were reaffirmed. The new application from NEFA seeking membership on HEA-ELS will be reviewed and acted on in the normal course.

Finally, there has been the suggestion that the issues of intercommittee coordination merit the creation of a new task group to conduct further study. The Council does not, at this time, believe that creation of another task group is warranted. The Council believes that the distinction between performance requirements and installation requirements is reasonably clear and the Council reiterates that “without deciding in advance what the Council would do regarding specific jurisdictional issues relating to this topic, the Council considers the guidance [from the previous task group] to be useful”. (See Standards Council Minute Item 10-3-21, March 2010). In this Decision, the Council has concluded that selective coordination (cascading outages) properly falls within the jurisdiction of NFPA 99. The NEC project should proceed, as part of its standards development activities, to harmonize the NEC with the relevant provisions of NFPA 99.

Standards Council Members Jim Pauley and Dick Owen recused themselves during the hearing, deliberation and vote on these issues.