MEMORANDUM

TO: Dennis Berry

FROM: Amy Beasley Cronin

DATE: October 30, 2009

SUBJECT: Proposed Changes to NFPA Rules and Regulations

Attached for review and approval by the NFPA Board of Directors are proposed changes to the *NFPA Regulations Governing Committee Projects (Regs.).* These changes have been processed by the NFPA Standards Council, and they are being transmitted to the Board on the Council's behalf.

The Standards Council finalized the proposed changes at their October 27, 2009 meeting with the intent that the Board address the changes at their November 2009 meeting. The Council's recommended changes are attached.

We request that these items be added to the November 2009 Board or Governance Committee agendas, as appropriate. Also, please advise me as soon as possible as to their status following the meeting so that the NFPA Codes & Standards Directory and other publications can be appropriately updated.

Thank you for your attention and assistance.

c: D. Baio, M. Brodoff, C. Dubay, L. Fuller, C. Peterson, J. Shannon
Members, NFPA Standards Council

SUMMARY OF 2009 PROPOSED CHANGES TO RULES AND REGULATIONS

RECOMMENDED BY THE NFPA STANDARDS COUNCIL FOR APPROVAL BY THE NFPA BOARD OF DIRECTORS

(LAST REVISION OCTOBER 28, 2008)

	Topic	Section Changed	Page*
1	Clarification of required content of a TIA and Council Secretary's denial criteria	*Regs.* 5.1 & 5.2	2
2	Acknowledgement that TCs occasionally go out of balance	*Regs.* 3.2.5	3
3	Modification to allow the Council to letter ballot versus physical meeting	*Regs.* 4.8	3

* Changes in the *Regs.* shown on pages 2-3
Narrative Summary of proposed changes begins on page 4

# Regulations Governing Committee Projects	(Numbers in this column correspond to agenda key)
Section 5 Tentative Interim Amendments **5.1 Content of a Proposed Tentative Interim Amendment.** Each Tentative Interim Amendment (TIA) shall be submitted to the Council Secretary and shall include the following: **(a)** Identification of the submitter and his or her affiliation (i.e., TC, organization, company), where appropriate **(b)** Identification of the Document, edition of the Document, and paragraph of the Document to which the TIA is directed **(c)** Proposed text of the TIA, including the wording to be added, revised (and how revised), or deleted **(d)** Statement of the problem and substantiation for TIA **(e)** The signature of the submitter or other means of authentication approved by the Council Secretary **(f)** Statement of basis of conclusion that the TIA is of an emergency nature requiring prompt action **(g)** Signature or other evidence of endorsement of the processing of the TIA of at least two members of the involved TC or TCC. ~~**5.1 Preliminary Determination of Compliance.** A Tentative Interim Amendment (TIA) to any Document may be processed if the Council Secretary determines, after a preliminary review, and consultation with the appropriate Chair, that the Amendment appears to be of an emergency nature requiring prompt action and has the endorsement of at least two Members of the involved TC or TCC. If processed, the question of emergency nature shall be considered by the TC and TCC. The text of a proposed Tentative Interim Amendment may be processed as submitted or may be changed, but only with the approval of the submitter.~~	*#1 Clarification of required content of a TIA and Council Secretary's denial criteria*
5.2. Preliminary Screening of Proposed Tentative Interim Amendment. The Council Secretary shall review all Proposed TIAs and may return to the submitter, without processing, any submission that does not conform to section 5.1. In addition, the Council Secretary may reject for processing any proposed TIA that manifestly does not appear to be of an emergency nature requiring prompt action. In exercising his or her discretion to reject a proposed TIA for processing, the Council Secretary may consult with the responsible TC/TCC chairs, and may consider, without limitation, whether the TIA submittal, on its face, does not state any adequate basis on which to conclude that it is of an emergency, whether it is unduly repetitive of issues already considered and rejected by the TC/TCC, or whether it is plainly frivolous. Where, however, there exists any reasonable question about the emergency nature of the proposed TIA or where the Council Secretary determines that it is otherwise advisable for the TIA to be processed, the Council Secretary shall submit the TIA for processing, and the question of emergency nature shall be considered anew and determined by the responsible TC and TCC. The text of a proposed TIA may be processed as submitted or may be changed, but only with the approval of the submitter. ~~**5.2**~~ **5.3 Evaluation of Emergency Nature…** ~~**5.3**~~ **5.4 Publication of Proposed Tentative Interim Amendment…**	*#1 Clarification of required content of a TIA and Council Secretary's denial criteria*

3.2.5 ~~Representation of~~ Determination of Interests. The Council shall determine the interests to be represented on TCs and TCCs. The Council may seek the recommendation of the TCC Chair and TC Chair in discharging this responsibility. 3.2.5.1 **Balance of Interests**. Normally, n~~N~~o more than one-third of the ~~v~~Voting Members shall represent any one interest. A TC or TCC shall not be considered out of balance, however, where, due to a member resignation, change of status, pending recruitment efforts or other circumstance, the representation of an interest exceeds one-third of the Voting Members. In such circumstances, the Standards Council shall make reasonable recruitment efforts to restore the TC or TCC to a normal balance of interests.	*#2* *TCs occasionally out of balance*

4.8 Action by the Council. The Council shall act on the issuance of a Document presented for action at an Association Technical Meeting within 75 days from the date of the recommendation from the Association Technical Meeting unless this period is extended by the Standards Council. For documents forwarded directly to the Standards Council pursuant to 4.5.~~7~~6, the Council shall act on the Document at its next scheduled meeting, or ~~such other meeting as the Council may determine~~ by letter ballot. (see 2.7)	*#3* *To allow letter balloting versus a physical meeting.*

Narrative Summary (see table on page 1 for corresponding item)

1) **Clarification of required content of a TIA and Council Secretary's denial criteria.** The Council Secretary (in practice) will only deny frivolous TIAs, and to better define what is needed from the submitter. Model after the "content of Proposals", Section 4.3.3. See attached Council decision where the Council addressed this issue and then the Secretary denying a TIA in 1996. (See page 5)
Standards Council Action: Approved in October 2009. This item to be forwarded to the BOD for their approval in November 2009.

2) **TCs occasionally out of balance.** In the P&P Task group call in July 2009, it was noted that there was concern over TCs going out of balance. It was noted that it has been used on appeal in an attempt to invalidate the TCs work, and that this should be addressed as a 'permissible' condition and that this condition shall not invalidate the TCs work.
Standards Council Action: Approved in October 2009. This item to be forwarded to the BOD for their approval in November 2009.

3) **Letter Balloting.** In 4.8 we are allowing the Council to letter ballot versus a physical meeting and adding a cross reference to paragraph 2.7 addressing voting.
Standards Council Action: Approved in October 2009. This item to be forwarded to the BOD for their approval in November 2009.

Decision of the Standards Council on the Complaint of W. Seneff, Grounding Management, regarding the Processing of a Tentative Interim Amendment to NFPA 70, *National Electrical Code*®

On July 16, 1996, the Standards Council considered the complaint of W. Seneff, Grounding Management L.L.C. The Complaint requests that the Council direct that a proposed Tentative Interim Amendment (TIA) adding a new subsection 680-25(g) to the 1996 edition of NFPA 70, National Electrical Code® (NEC) be given full processing.

The proposed TIA would permit the use in swimming pools of certain listed devices to reduce stray electrical current in the equipment grounding conductor. The complainant who proposed the TIA argued that the proposed TIA was a response to reports of galvanic corrosion occurring to pool walls and pool equipment due to stray electrical currents. According to him, the corrosion problem has caused some pool owners to disconnect the grounding related equipment to ameliorate the corrosion problem, and unknowingly create a possible fire hazard or electrical shock hazard. The TIA seeks to tentatively resolve this issue by allowing the proposed listed device to be installed in series with the pool equipment grounding conductor.

When the TIA was submitted, the NEC Technical Correlating Committee (TCC) appointed a Task Group in accordance with NEC Operating Procedures (Section 113) to advise the Secretary of the Standards Council whether the TIA should be processed. This Task Group provided a unanimous recommendation to the Council Secretary that the TIA should not be processed. Based on this recommendation, the Council Secretary declined to submit the proposed TIA for processing. See Regulations Governing Committee Projects at 4-1. This complaint followed.

Attending a hearing on the complaint was W. Seneff, Grounding Management L.L.C.

In his written submissions and at the hearing, the complainant argued that he had presented sufficient evidence of the emergency nature of his proposed TIA to, at a minimum, merit that the TIA be submitted for full processing. After review of the record before it, the Council has agreed. The determination of the Secretary pursuant to the Regulations at 4-1 is a preliminary determination designed to screen out only those proposed TIA's which clearly do not meet the emergency nature requirement. Where there exists any reasonable question about the emergency nature of the proposed TIA, the better practice is to submit it for full processing. The TIA here has raised the possibility that a potentially dangerous problem may exist with pool and pool equipment. The Council believes that this provides an adequate basis to proceed with the processing of the TIA through the system so that the public, the membership of Code Making Panel 20, and the TCC can review and express their opinions on the TIA.

In directing that the TIA be processed, the Council is not expressing a view on the emergency nature or the technical merits of the TIA. Rather, the Council is only stressing that, based on the record before it, it is clear that the TIA should be processed through the system. The Council notes that, under the Regulations, both the question of the emergency nature, as well as the technical merits of the TIA, are open to review and consideration during processing.

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