Dawn Michele Bellis
Secretary, Standards Council

12 September 2014

To: Interested Parties

Subject:

<table>
<thead>
<tr>
<th>Standards Council Decision (Final):</th>
<th>D#14-3</th>
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</thead>
<tbody>
<tr>
<td>Standards Council Agenda Item:</td>
<td>SC#14-8-4-c</td>
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<tr>
<td>Date of Decision:</td>
<td>14 August 2014</td>
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</tbody>
</table>

Dear Interested Parties:

At its meeting of August 11-14, 2014, the Standards Council considered an appeal on the above referenced matter. On August 26, 2014, 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 Final decision is now available and is attached herewith.

Sincerely,

Dawn Michele Bellis
Secretary, NFPA Standards Council

c: D. Berry, S. Everett, L. Fuller, M. Wixted, K. Bigda, R. Coté, R. Solomon
Members, TC on Mercantile and Business Occupancies (BLD/SAF-MER)
Members, TC on Means of Egress (BLD/SAF-MEA)
Members, CC on Safety to Life (SAF-AAC)
Members, CC on Building Code (BLD-AAC)
Members, NFPA Standards Council (AAD-AAA)
Individuals Providing Appeal Commentary
SUMMARY OF ACTION (for convenience only; not part of official decision): The Standards Council voted to deny the appeal to Return an Identifiable Part of Table 7.3.1.2 to previous edition text. The decision thereby results in retaining the subset category of an occupant load factor for “Concentrated Business Use”.

DECISION:
At its August 11-14, 2014 meeting, the Standards Council considered an appeal from David Frable, representing U.S. General Services Administration. The appeal requests that the 2015 edition of NFPA 101®, Life Safety Code®, be issued without the revisions made to Table 7.3.1.2, specifically that created a new subset category of “Concentrated Business Use”.

BACKGROUND:
The subject of occupant load factors for both “Concentrated Business Use” and “Business Use (other than below)” received public review during the Input Stage of the Annual 2014 Revision Cycle for NFPA 101®. The Technical Committee on Means of Egress (SAF-MEA TC) and the Technical Committee on Mercantile and Business Occupancies (SAF-MER TC) each proposed changes to the occupant load factors for Business Use (other than below). Additionally, both Committees proposed inclusion of occupant load factors for Concentrated Business Use through First Revisions. During review of the First Draft, the Safety to Life Correlating Committee (CC) resolved the matter by processing a First Correlating Revision to revise the First Draft so that Table 7.3.1.2 reflected SAF-MER TC’s proposed changes. The First Correlating Revision read:

<table>
<thead>
<tr>
<th>Use</th>
<th>(ft²/person)a</th>
<th>(m²/person)a</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Use (other than below)</td>
<td>100</td>
<td>9.3</td>
</tr>
<tr>
<td>Concentrated Business Use</td>
<td>50</td>
<td>4.6</td>
</tr>
</tbody>
</table>

No Public Comments were received on the proposed changes. The SAF-MER TC did, however, further revise the occupant load factor for “Business Use (other than below)” by processing Second Revisions to return the “Business Use (other than below)” requirement to previous edition text: that is, 100 (ft²/person)a or 9.3 (m²/person)a. The CC processed Second Correlating Revisions so that Table 7.3.1.2 reflected SAF-MER TC’s proposed changes.
A Notice of Intent to Make a Motion was filed in compliance with the Regulations Governing the Development of NFPA Standards (Regs) which was certified by the Motions Committee for presentation at the 2014 NFPA Technical Meeting (Tech Session). Certified Amending Motion 101-1 (CAM 101-1) sought to reject an Identifiable Part of SCR-4 and thereby return the occupant load factor for “Business Use (other than below)” to First Draft text. The motion did not specifically address the Concentrated Business Use. A Motion (CAM 101-1) was made at the Tech Session and failed on the floor.

When a Certified Amending Motion fails on the floor of the Tech Session, the recommendation that comes to the Standards Council is to issue the standard without the amendment. The appellant requests that the Council overturn the action recommended by the NFPA standards development process and issue the 2015 edition of NFPA 101® without the inclusion of the load factor for Concentrated Business Use in Table 7.3.1.2.

Under NFPA Regulations, those who disagree with the actions of a Technical Committee during the Input Stage are required to register their objections through the filing of appropriate Public Comments. By filing such objections, the consensus bodies within the NFPA process have the opportunity to consider the objections or new information. Furthermore, the submitting of Public Comments on a specific item is generally a prerequisite to the making of CAMs during the subsequent Tech Session attended by the NFPA membership. In this case, neither the appellant nor anyone else submitted any Public Comment addressing the inclusion of Concentrated Business Use in Table 7.3.1.2 or the related occupant load factor for “Concentrated Business Use”. Although CAM 101-1 was pursued, it did not impact the Concentrated Business Use requirement which the appellant has indicated is the sole focus of his appeal.

On appeal, the Council accords great respect and deference to the NFPA standards development process. 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 those presented here, where the appellant has failed to take advantage of all of the steps available within the standards development process, the Council is especially reluctant to consider overturning the results yielded by the process. Whether or not explicitly stated within the appeal, the Council notes that the Research Foundation study, which was referenced by each of the SAF-MER and SAF-MEA Technical Committees as substantiation for including occupant load factors for “Concentrated Business Use” in the First Draft Revision(s), was available on the Research Foundation website.

The Council has reviewed the entire record concerning this matter and has considered all the arguments put forth in this appeal. In view of the Council, this appeal does not present any clear and substantial basis upon which to overturn the results yielded by the standards development process. Accordingly, the Council has voted to deny the appeal submitted by Mr. Frable. The effect of this action is that Table 7.3.1.2 will include a new occupant load factor for “Concentrated Business Use” of 50 (ft²/person) or 4.6 (m²/person).

Council Member Kenneth Bush recused himself during deliberation and vote on this issue.