Dear Interested Parties:

At its meeting of August 17-19, 2015, the Standards Council considered two appeals on the above referenced matter. On August 21, 2015, 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, G. Colonna, N. Pearce
Members, TC on Finishing Processes (FAA-AAA)
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 Overturn the Association Action on CAM 33-1 and thereby Accept Public Comment 14, AND to deny the appeal to Overturn the Association Action on CAM 33-2 and thereby Accept Public Comments 10, 11, 12 and 13.

DECISION:
At its meeting of August 17-19, 2015, the Standards Council considered two appeals from Marcelo Hirschler of GBH International. The appeals request that the Standards Council Overturn the Association Action on CAM 33-1 and thereby Accept Public Comment 14, AND Overturn the Association Action on CAM 33-2 and thereby Accept Public Comments 10, 11, 12 and 13 for the proposed 2016 edition of NFPA 33, Standard for Spray Application Using Flammable or Combustible Materials.

As background, the appellant filed a Notice of Intent to Make a Motion (NITMAM) in compliance with NFPA Regulations Governing the Development of NFPA Standards (Regs) which was certified by the Motions Committee for presentation at the 2015 NFPA Technical Meeting (Tech Session). Certified Amending Motion 33-1 sought acceptance of Public Comment No. 14, which would have resulted in the following text:

3.3.18.1 Limited Finishing Workstation
An apparatus that is capable of confining the vapors, mists, residues, dusts, or deposits that are generated by a spray application process and that meets the requirements of Section 14.3, but does not meet the requirements of a spray booth or spray room, as herein defined.

A.3.3.18.1 Limited finishing workstations meet the requirements of Section 14.3 of this standard.

Certified Amending Motion 33-2 sought acceptance of Public Comment Nos. 10, 11, 12, and 13, which would have resulted in the following text:

3.3.9 Limited Combustible (Material)
A building construction material not complying with the definition of noncombustible material that, in the form in which it is used, has a potential heat value not exceeding 8140 kJ/kg (3500 Btu/lb), where tested in accordance with NFPA 259 and complies with (a) or (b): (a) materials having a structural base of noncombustible material, with a surfacing not exceeding a thickness of 3 mm (1/8 in).
in.) that has a flame spread index not greater than 50; and (b) materials, in the form and thickness used, other than as described in (a), having neither a flame spread index greater than 25 nor evidence of continued progressive combustion and of such composition that surfaces that would be exposed by cutting through the material on any plane would have neither a flame spread index greater than 25 nor evidence of continued progressive combustion. (Materials subject to increase in combustibility or flame spread index beyond the limits herein established through the effects of age, moisture, or other atmospheric condition shall be considered combustible.) *(See 5.1.1)*

3.3.11.2 Noncombustible (Material).
A material that, in the form in which it is used and under the conditions anticipated, will not ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat. Materials that are reported as passing ASTM E 136, *Standard Test Method for Behavior of Materials in a Vertical Tube Furnace at 750° C*, are considered noncombustible materials. *(See 5.1.2)*

Chapter 5 Construction and Design of Spray Areas, Spray Rooms, and Spray Booths

5.1 Terminology.

5.1.1 * Noncombustible Material [NFPA 5000; 2015].

5.1.1.1 A material that complies with any one of the following shall be considered a noncombustible material:

(1) The material, in the form in which it is used, and under the conditions anticipated, will not ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat.

(2) The material is reported as passing ASTM E 136, *Standard Test Method for Behavior of Materials in a Vertical Tube Furnace at 750 Degrees C*.

(3) The material is reported as complying with the pass/fail criteria of ASTM E 136 when tested in accordance with the test method and procedure in ASTM E 2652, *Standard Test Method for Behavior of Materials in a Tube Furnace with a Cone-shaped Airflow Stabilizer, at 750 Degrees C*.

5.1.1.2 Where the term *limited-combustible* is used in this Code, it shall also include the term *noncombustible*.

5.1.2 * Limited-Combustible Material. A material shall be considered a limited-combustible material where both of the following conditions of 5.1.2(1), and 5.1.2(2), and the conditions of either 5.1.2.1 or 5.1.2.2 are met [NFPA 5000; 2015]:

(1) The material does not comply with the requirements for a noncombustible material in accordance with 5.1.1.

(2) The material, in the form in which it is used, exhibits a potential heat value not exceeding 3500 Btu/lb (8141 kJ/kg), when tested in accordance with NFPA 259, *Standard Test Method for Potential Heat of Building Materials*.

5.1.2.1 The material shall have a structural base of noncombustible material with a surfacing not exceeding a thickness of 1/8 in. (3.2 mm) where the surfacing exhibits a flame spread index not greater than 50 when tested in accordance with ASTM E 84, *Standard Test Method for Surface Burning Characteristics of Building Materials*, or ANSI/UL 723, *Standard for Test for Surface Burning Characteristics of Building Materials*.

5.1.2.2 The material shall be composed of materials that in the form and thickness used, neither exhibit a flame spread index greater than 25 nor evidence of
continued progressive combustion when tested in accordance with ASTM E 84 or ANSI/UL 723 and are of such composition that all surfaces that would be exposed by cutting through the material on any plane would neither exhibit a flame spread index greater than 25 nor exhibit evidence of continued progressive combustion when tested in accordance with ASTM E 84 or ANSI/UL 723.

5.1.2.3 Where the term limited-combustible is used in this Practice, it shall also include the term noncombustible.

A.5.1.1 The provisions of 5.1.1 do not require inherently noncombustible materials to be tested in order to be classified as noncombustible materials. [NFPA 5000; 2015]

A.5.1.1.1(1) Examples of such materials include steel, concrete, masonry and glass. [NFPA 5000; 2015]

A.5.1.2 Material subject to increase in combustibility or flame spread index beyond the limits herein established through the effects of age, moisture, or other atmospheric condition is considered combustible. (See NFPA 259, Standard Test Method for Potential Heat of Building Materials, and NFPA 220, Standard on Types of Building Construction.) [NFPA 5000; 2015]

Renumber subsequent Sections & their corresponding Annexes

2.2 NFPA Publications.

2.3.2 ASTM Publications.

2.3.3 UL Publications.

2.4 References for Extracts in Mandatory Sections.

E.1.1 NFPA Publications.

E.3 References for Extracts in Informational Sections.

Certified Amending Motions 33-1 and 33-2 were made at the 2015 Tech Session. Each of these two Certified Amending Motions failed on the floor.

When a Certified Amending Motion seeking to reject Technical Committee revisions fails on the floor of the Tech Session, the recommendation that comes to the Standards Council is to issue the standard as developed by the Technical Committee. These appeals request
the Standards Council overturn the actions recommended by the standards development process. In this case, the recommendations yielded by the process are to reject Public Comment Nos. 10, 11, 12, 13, and 14, leaving text as developed and recommended by the Technical Committee on Finishing Processes in the 2016 edition of NFPA 33, *Standard for Spray Application Using Flammable or Combustible Materials*.

On appeal, the Council accords great respect and deference to the NFPA standards development process. In conducting its review, the Council will deviate from the result recommended through that process only where a clear and substantial basis for doing so is demonstrated.

The present appeals request that the Council overturn the actions recommended by the standards development process. In the view of the Council, these appeals do not present any clear and substantial basis upon which to overturn the results yielded by the NFPA standards development process. Simply put, the text developed during the standards development process gained sufficient support for inclusion in the 2016 edition of NFPA 33, *Standard for Spray Application Using Flammable or Combustible Materials*.

It is important to note that the Technical Committee on Finishing Processes has indicated in response to these appeals that the issues presented and raised by Mr. Hirschler in his Certified Amending Motions 33-1 and 33-2 will be taken up by the Technical Committee during the next revision cycle of NFPA 33, *Standard for Spray Application Using Flammable or Combustible Materials*.

The Council, having reviewed the entire record concerning this matter and having considered all the arguments put forth in these appeals, has voted to deny both appeals and issue NFPA 33, *Standard for Spray Application Using Flammable or Combustible Materials*, 2016 Edition.

All Standards Council members participated in the consideration, deliberation, and vote on this issue.