



Dawn Michele Bellis  
Secretary, Standards Council

21 August 2019\*

To: Interested Parties

Subject:

Standards Council Decision (Final):	<b>D#19-11</b>
Standards Council Agenda Item:	<b>SC#19-8-3-d_h_i_k_l_o_p_ q_r_s_t_z_aa_bb_cc_ff_ii</b>
Date of Decision:	6 August 2019
NFPA 70 <sup>®</sup> , <i>National Electrical Code</i> <sup>®</sup> , 2020 Edition	

Dear Interested Parties:

At its meeting of August 5-7, 2019, the Standards Council considered an appeal on the above referenced matter. The Council's Final decision is now available and is attached herewith.

Sincerely,

A handwritten signature in black ink that reads "Dawn Michele Bellis".

Dawn Michele Bellis  
Secretary, NFPA Standards Council

cc: S. Everett, S. Gallagher, L. Fuller, M. Earley, J. Sargent, G. Frost  
Members, Code-Making Panels (NEC-P01 – P18)  
Members, NEC Correlating Committee (NEC-AAC)  
Members, NFPA Standards Council (AAD-AAA)  
Individuals Providing Appeal Commentary

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\*NOTE: Participants in NFPA's standards development 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 Regulations Governing the Development of NFPA Standards 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 publication date of this Decision.



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**SUMMARY OF ACTION (for convenience only; not part of official decision):** The Standards Council voted to deny the appeals to overturn the Association Actions on seventeen Certified Amending Motions.

**DECISION:**

At its meeting of August 5-7, 2019, the Standards Council considered appeals from Christel Hunter of Cerro Wire and Howard Herndon of PEARL. The appeals request that the Standards Council overturn the Association Actions on seventeen Certified Amending Motions (CAMs) for the 2020 Edition of NFPA 70<sup>®</sup>, *National Electrical Code*<sup>®</sup> (NEC<sup>®</sup>). Specifically, the appeal requests that the actions of numerous Code-Making Panels (CMPs) recommending text related to the reconditioning of electrical equipment be overturned.

As background, there were a number of Public Inputs (PI) related to the topic of reconditioned equipment, including Public Input No. 2935, which introduced a proposed revision in Article 110 (“requirements for electrical installations”) related to listing and approval of reconditioned equipment as a way to determine “compliance with the related safety standard”. The Correlating Committee considered PI No. 2935 to have global impact across all CMPs,<sup>1</sup> and submitted Public Comment No. 979, which directed all CMPs to “determine whether reconditioning should be permitted.” The CMPs reviewed the Correlating Committee’s Public Comment No. 979, and created approximately sixteen Second Revisions to prohibit the reconditioning of certain equipment (namely, Second Revision Nos. 8072, 7657, 7974, 8048, 8187, 8189, 8172, 8162, 8164, 8222, 7522, 7584, 7586, 7588, 7517, and 7509). Multiple Notices of Intent to Make a Motion (NITMAMs) were filed by Hunter and Herndon and were certified by the Motions Committee as Certified Amending Motions (CAM) 70-4, 70-12, 70-13, 70-15, 70-16, 70-27, 70-28, 70-30, 70-31, 70-32, 70-33, 70-41, 70-42, 70-43, 70-44, 70-47, and 70-50 respectively. Fifteen of the seventeen CAMs were presented and failed on the floor of the NFPA Technical Meeting; CAMs 70-31 and 70-32 were not pursued at the Technical Meeting. Ms. Hunter and Mr. Herndon respectively filed appeals with the Council based upon the unsuccessful results of the CAMs at issue.

The text subject to these appeals did not gain sufficient support within the standards development process to overturn the Second Revisions recommended by the responsible CMPs and exclude the text from the 2020 Edition of NFPA 70, *National Electrical Code*. The appeals request that the Council overturn the results yielded by the standards development process. In support of the appeals filed by Mr. Herndon and Ms. Hunter, they assert that prohibiting the reconditioning of certain equipment was a concept that was introduced for the first time during the Second Draft Report, and therefore should be considered “new material”.

<sup>1</sup> In the committee statement of PC 979, the Correlating Committee stated that it created Global Public Comment 979 because PI 2935 “has ramifications that are global in nature and impacts all products referenced in the NEC<sup>®</sup> under the purview of every CMP.”

The *Regulations Governing the Development of NFPA Standards (the “Regs”)* give the responsible technical committee the authority to determine when a Public Comment (PC) should be held for processing because it is either new material or has not had adequate public review (Section 4.4.8.3). Generally speaking, the *Regs* anticipate that a PC has sufficient public review if it is included in a related PI or First Revision as shown in the First Draft, but discretion is left with the technical committee to consider “any relevant factors including but not limited to the extent to which the PC proposes a change that is new or substantial, the complexity of the issues raised, and whether sufficient debate and public review has taken place.” (Section 4.4.8.3.2). The technical committee, with its expertise and balance of interests, is well-positioned to review and consider these factors.

In the Council’s view, the record reflects that various PIs were proposed around the topic of reconditioned equipment related to safety concerns and ability to comply with safety standards. By way of example, PI No. 2935 sought to introduce a listing requirement for reconditioned equipment as a way to determine “compliance” with safety standards; Mr. Herndon made a presentation to CMP 1 at the First Draft meeting regarding including references to PEARL Electrical Equipment Reconditioning Standard, which relates to how and when electrical equipment can be returned to safe operating conditions; and the Correlating Committee, in its review of the First Revisions, formed a Task Group to determine whether reconditioning should be permitted (the result of which was Global PC No. 979). Given the breadth of these examples alone, the Council finds it reasonable that several CMPs created Second Revisions on the topic of what, and whether electrical equipment should be reconditioned based upon discussions, presentations and PIs from the First Draft meeting.

On appeal, the Council accords great respect and deference to the NFPA standards development process. In conducting its review, the Council will overturn the results of that process only where a clear and substantial basis for doing so is demonstrated. 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 upon which to overturn the results yielded by the NFPA standards development process. Accordingly, the Council has voted to deny the appeals. The effect of this action is that the text of Second Revision Nos. 8072, 7657, 7974, 8048, 8187, 8189, 8172, 8162, 8164, 8222, 7522, 7584, 7586, 7588, 7517, and 7509, as recommended by the responsible CMPs, will be included in the 2020 Edition of NFPA 70, *National Electrical Code*.

Council acknowledges that the topic of reconditioned equipment has been discussed over several revision cycles, and given the breadth of the topic, finds that the subject warrants further discussion with affected stakeholders, including the reconditioning industry. For that reason, Council directs NFPA staff to establish a balanced Task Group of the interested parties to determine whether Tentative Interim Amendments (TIA) or Public Inputs for the 2023 Edition of NFPA 70 need to be developed. The Task Group shall minimally include: members of the reconditioning industry, members of CMPs, a member of the *NEC* Correlating Committee, and industry representatives of facility owners. A report of progress by the Task Group is to be provided to the Council by March 15, 2020. As the work of the Task Group progresses, the Council additionally encourages the reconditioning industry as well as all interested stakeholders to continue to participate in the NFPA standards development process.

Council Members Kerry Bell, Chad Beebe and Michael Johnston recused themselves from the deliberations and vote on the appeal.