



*Dawn Michele Bellis*  
*Secretary, Standards Council*

30 August 2019

To: Interested Parties

Subject:

Standards Council Decision (Final):	<b>D#19-24</b>
Standards Council Agenda Item:	<b>SC#19-8-3-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. On August 21, 2019 NFPA published the Council's decision on the appeal in the form of a "Short" decision. The short decision included the outcome of the appeal and indicated that a full Final decision on the appeal would be issued in due course to all interested parties as soon as it became available.

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, J. Sargent, G. Frost  
Members, NEC Correlating Committee (NEC-AAC)  
Members, NFPA Standards Council (AAD-AAA)  
Individuals Providing Appeal Commentary



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NFPA 70®, *National Electrical Code*®, 2020 Edition

**SUMMARY OF ACTION (for convenience only; not part of official decision):** The Standards Council voted to deny the appeal to overturn Second Correlating Revision No. 38 and return the recommended text for Section 517.5 to Second Revision No. 7851 in the 2020 edition of NFPA 70®, *National Electrical Code*®.

**DECISION:**

At its meeting of August 5-7, 2019, the Standards Council considered three appeals from James Peterkin of TLC Engineering Solutions. This appeal requests that the Standards Council overturn Second Correlating Revision No. 38 (SCR 38) and return the recommended text for Section 517.5 to Second Revision No. 7851 (SR 7851) for inclusion in the 2020 edition of NFPA 70®, *National Electrical Code* (NEC®). Specifically, the appeal requests that the Council restore the recommended text supported by Code-Making Panel 15 (CMP 15) which excludes the requirements for listing of reconditioned equipment from being applied to health care facilities and the informational note advising that refurbished medical equipment and other electrical distribution equipment is common in health care facilities.

As background, the NEC® Correlating Committee supported SCR 38 through ballot. No Notice of Intent to Make a Motion (NITMAM) was filed for SCR 38. Mr. Peterkin (at the direction of the NFPA Health Care Section by vote at its business meeting in San Antonio, June 19, 2019) filed an appeal with the Council seeking the rejection of SCR 38 and to return to the text recommended by CMP 15 in SR 7851.

The text recommended for deletion and subject to this appeal gained sufficient support within the standards development process for the 2020 edition of NFPA 70, *National Electrical Code*. The appeal requests that the Council overturn the results yielded by the standards development process. 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.

In support for this appeal, the Appellant asserts a number of arguments, including (i) that the Correlating Committee statement failed to adequately describe the technical substantiation for SCR 38; (ii) that CMP 15 improperly included “new material” in the Second Revision; (iii) that the topic of reconditioned electrical equipment is outside of the scope of NFPA 70 and is inconsistent with previous Council decisions regarding jurisdictional lines between NFPA 70® and NFPA 99 on issues affecting health care facilities; and (iv) that an error in NFPA’s Terra electronic submission system failed to display SCR 38 to allow timely filing of a NITMAM on this matter.

With regard to the first argument that SCR 38 had inadequate technical substantiation, the record reflects that the Correlating Committee identified a specific correlation issue and related justification; but the Appellant identifies competing reasons for rejecting SCR 38. While there may be technical disagreement on this issue, Council will not substitute its judgment for that of the Committee on technical matters and finds the Correlating Committee provided sufficient substantiation to support its action.

The Appellant asserts that CMP 15 improperly introduced “new material” at the Second Draft by adding text relating to reconditioned equipment. In the Council’s view, the record reflects that various Public Inputs (PI) were proposed for the topic of reconditioned equipment related to safety concerns and ability to comply with safety standards. By way of example, PI 2935 sought to introduce a listing requirement for reconditioned equipment as a way to determine “compliance” with safety standards; and various PIs proposed new global definitions for reconditioning. In its review of the First Revisions, the Correlating Committee even formed a Task Group for the purpose of determining whether reconditioning should be permitted (the result of which was Global Public Comment 979). Given the breadth of these examples, the Council finds it reasonable that several CMPs created Second Revisions on the topic of what, how and whether electrical equipment should be reconditioned based upon discussions and reviewed PIs at the First Draft meeting.

The Appellant also asserts that the topic of reconditioned electrical equipment is outside of the scope of the NEC and inconsistent with prior Council decisions that have established that NFPA 70 has jurisdiction over electrical “installation” matters, while NFPA 99 has jurisdiction over “performance” matters related to health care facilities. Specifically, the Appellant states in the appeal that reconditioned electrical equipment is categorically a “performance” matter and therefore outside the scope of the NEC.<sup>1</sup> Reconditioned electrical equipment broadly includes equipment that is used for a building’s electrical infrastructure and therefore Council disagrees that reconditioned electrical equipment is categorically outside the scope of the NEC.

Finally, the Appellant raises the concern regarding a failure of NFPA’s Terra electronic submission system to display SCR 38 in a timely manner. Without reviewing the specific technical issue that may have occurred, Council finds that SCR 38 was publicly available and published through the Second Draft Report in a timely manner on NFPA’s website.

The Council has reviewed the entire record concerning this matter and has considered all the arguments put forth in this appeal. In the view of the Council, this appeal does 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 appeal. The effect of this action is that the text deleted by recommendation of SCR 38 will not be included in the 2020 edition of NFPA 70, *National Electrical Code*.

Council remains concerned about the apparent and ongoing breakdown in communication between NFPA 70, NFPA 99 and other interested health care parties. In response to similar communication challenges in the past and over the course of several revision cycles, Council had formed the “Intercommittee Coordination Committee”, which was charged with communicating changes related to the NEC and NFPA 99 to the respective correlating and technical committees (and panels). It is apparent based upon the three appeals filed by Mr. Peterkin that the Committee has not been effective in achieving its purpose, and Council hereby disbands the Committee.

In its place, Council directs a new approach to improve the important lines of communication between the responsible committees and panels of the NEC and NFPA 99. The Council intends to take action at its December 2019 meeting to amend the NEC Correlating Committee structure to include a non-voting correlating committee liaison from NFPA 99 project membership. Additionally, it is the intention of the Standards Council to add a non-voting correlating committee liaison from the NEC project membership to the NFPA 99 Correlating Committee with the anticipation of increased visibility, transparency and communications regarding electrical installation and performance requirements in health care facilities.

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<sup>1</sup> The Appellant’s written appeal, at Agenda Attachment 19-8-3-11 states: “reconditioned equipment relates to the way the occupancy needs to perform...”

In the meantime, to the extent they are dissatisfied with the language in NFPA 70, the Health Care Section or other interested stakeholders are encouraged to explore the appropriateness and development of a Tentative Interim Amendment (TIA) or Public Input for the next revision cycle to address the concerns asserted in this appeal regarding the prohibition of reconditioned electrical equipment in health care facilities.

Finally, Council heard a report from staff regarding any technical issues in the Terra electronic submission system and a description of the proposed solution. At its December 2019 meeting, Council asks staff to report on testing results following the implementation of the solution.

Council Members Chad Beebe, Michael Johnston, and Daniel O'Connor recused themselves from the deliberations and vote on the appeal.