



Dawn Michele Bellis
Secretary, Standards Council

10 September 2021*

To: Interested Parties

Subject:

Standards Council Decision (Final):	D#21-4
Standards Council Agenda Item:	SC#21-8-4-b and -c
Date of Decision:	26 August 2021
<i>NFPA 10, Standard for Portable Fire Extinguishers, 2022 Edition</i>	

Dear Interested Parties:

At its meeting of August 24-26, 2021, the Standards Council considered appeals 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, D. Duffy, B. Ozden
Members, TC on Portable Fire Extinguishers (PFE-AAA)
Members, NFPA Standards Council (AAD-AAA)
Individuals Providing Appeal Commentary

*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 two appeals requesting Council to overturn the ballot results of CAM 10-5 and Reject Second Revision No. 18.

DECISION:

At its meeting of August 24-26, 2021, the Standards Council considered two appeals from John McSheffrey of en-Gauge Inc. and Danielle Felch of Johnson Controls, respectively. The appeals request that the Standards Council overturn the ballot results of CAM 10-5 and Accept Second Revision No. 18, upholding the Association Action results of the NFPA Technical Meeting. Specifically, the appeal requests to delete the text in Section 7.2.2 and related Annex 7.2.2(5) recommended by the Technical Committee on Portable Fire Extinguishers (TC) as Second Revision No. 18.

As background, the TC voted to approve Second Revision No. 18 at second draft on Section 7.2.2 and A7.2.2(5). The Second Revision was the result of the TC taking the action of “reject but see” on Public Comment No. 70 as one of the four available actions provided in the *Regulations Governing the Development of NFPA Standards (Regs)* (See 4.4.8.1). A Notice of Intent to File a Motion was submitted by Danielle Felch to Reject Second Revision No. 18 and was certified by the Motions Committee, then presented for debate during the NFPA Technical Meeting as CAM 10-5. CAM 10-5 (“CAM”) achieved the necessary simple majority support of the Membership during the NFPA Technical Meeting. The TC was balloted in accordance with Table 1 of the *Regs*; the CAM failed to achieve the necessary support of the TC and therefore the recommendation to the Council is to return this text to previous edition text. Mr. McSheffrey and Ms. Felch filed separate appeals with the Council based upon the ballot results of CAM 10-5.

CAM 10-5 did not gain sufficient support within the standards development process for recommendation to Council. The appeals request 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. The Council finds no such basis demonstrated in this matter.

The appellants allege that there were procedural errors during NFPA Standards Development process based upon the following: (1) the TC action was to reject PC 70 at Second Draft, but was erroneously included in the Second Draft as SR-18; (2) SR-18 was developed independently by NFPA staff after the Second Draft Meeting concluded (per the date stamp of the SR); (3) PC 70 was reworded without TC approval when it was incorporated into Second Draft as SR-18. Council reviewed the record and seeks to address each of these allegations in turn.

The record of the TC action at Second Draft was to “reject but see” PC 70 and there appears to be confusion around the results of that action under the *Regs*. “Reject but see” does not mean that the PC was rejected entirely. *Regs* Section 4.4.8.1(b) provides clarity: the committee takes this action “when it agrees with the

concept of the Public Comment in whole or in part but has developed related text in one or more second revisions...” The TC action as documented by the responsible NFPA staff liaison had the effect of accepting PC 70, but moving it to a different section.

Appellants expressed concern that the NFPA staff liaison recorded the TC action on PC 70 in the electronic platform several business days after the meeting. The Technical Committee on Portable Fire Extinguishers’ Second Draft meeting ended on September 3, 2020 and the NFPA staff liaison recorded the TC action in the platform on September 9. While NFPA staff works to record actions in the electronic system live during TC meetings, this is not always possible. Also, the work of staff is not complete once the TC adjourns. In accordance with the *Regs* Section 3.1.7, the staff liaison is responsible for reviewing the proposed revisions to ensure that they are grammatically correct, consistent with the NFPA Manual of Style, and finalized before balloting by the responsible TC. At all points in the processing, the system time stamps work and the person authorized to be within the system. Therefore, the fact that staff recorded an action after the meeting, without any other information, is not itself evidence of wrongdoing. Rather, it is an anticipated and authorized action given the role of staff liaisons.

Appellants were also concerned that PC 70 was reworded when it was included as SR-18 in the Second Draft. Based upon the record from the electronic platform, SR-18 was reworded by NFPA’s editorial team. The editorial team has responsibility for editorial review and the authority to make modifications per the *Regs* (e.g., Section 4.4.9.6). Editorial changes are a normal and regular part of NFPA’s standards development process and without any information to support wrongdoing, Council finds no procedural error.

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 NFPA 10, *Standard for Portable Fire Extinguishers*, 2022 edition, the text in Section 7.2.2 will return to previous edition text and will not include related proposed Annex 7.2.2(5) text.

It bears noting that one appellant implied there may be undisclosed financial ties among existing TC members but did not provide any further detail or support for this claim. Council questioned the appellant about this allegation during the hearing, but no information was provided. Council takes such allegations seriously and expects participants to be forthcoming with information when making claims of such nature.

Lastly, Council observed in reviewing the entire record, that comments of TC member ballots on CAM 10-5 reflect a lack of clarity and consistency on the underlying technical matter. Council encourages the TC to address these issues with an informed, technically substantiated resolution.

Council member Rodger Reiswig recused himself from deliberations and vote on this appeal.