10 September 2021*

To: Interested Parties

Subject:

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,

Dawn Michele Bellis
Secretary, NFPA Standards Council

cc: S. Everett, S. Gallagher, C. Duffy, J. Sargent
   Members, Code-Making Panel 2 (NEC-P02)
   Members, NEC Correlating Committee (NEC-AAC)
   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.
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 and issue TIA No. 1589 on NFPA 70®, National Electrical Code®, 2020 Edition.

DECISION:
At its meeting of August 24-26, 2021, the Standards Council considered appeals from two appellants, Daniel Buuck of National Association of Home Builders (NAHB), and William Koffel representing the Leading Builders of America (LBA). The appellants request that the Standards Council overturn the Code-Making Panel 2 (Panel 2) and NEC Correlating Committee (CC) ballot results and issue TIA No. 1589 on the 2020 edition of NFPA 70. Specifically, the appeal requests that the Standards Council issue TIA No. 1589 which seeks to revise section 210.8(F).

As background, TIA No. 1589 was balloted through Panel 2 and the CC in accordance with the Regulations Governing the Development of NFPA Standards (Regs) to determine whether the necessary three-fourths majority support was achieved on technical merit, correlation and emergency nature for recommendation of issuance. The TIA failed to achieve the necessary support of Panel 2 on both technical merit and emergency nature, achieved the necessary support of the CC on correlation, but failed to achieve support by the CC on emergency nature.

Council wishes to note that TIA No. 1589 is one of four TIAs presented to the Council on section 210.8(F) for action at this meeting (three of which failed to achieve the necessary support of both Panel 2 and the CC). Additionally, a fifth TIA was processed and presented to Council at its December 2020 meeting (TIA No. 1529 which failed to achieve the necessary support of the CC by one vote on emergency nature).

When a TIA fails to achieve the recommendation of the responsible committee, the resulting recommendation of the standards development process is to not issue the TIA.

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. There is no such basis demonstrated in this matter.

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 of TIA No. 1589 will not be included in 2020 edition of NFPA 70, National Electrical Code, 2020 Edition.

While the TIA at issue in this appeal failed to achieve support from Panel 2 and the CC, TIA No. 1593 (which was also on Section 210.8(F)) did gain the necessary support of Panel 2 and the CC and is being issued by Council (see Minute Item 21-8-29). Appellants nonetheless express concern that that TIA 1593 is too narrow. Council acknowledges the concerted and sustained effort by numerous stakeholders to find...
a mutually agreeable solution to the technical issues at hand. Therefore, the Council directs that NFPA Staff establish a Task Group of affected stakeholders including HVAC, mini-split and ground-fault circuit interrupter manufacturers, among other interested parties, to evaluate and reach an informed, technically substantiated resolution to the issues raised. The Council encourages the Task Group to submit a TIA for processing to the current edition and in parallel to the work being done within the next edition of the NEC, if appropriate.

Council members Michael Johnston, John Kovacik and Catherine Stashak recused themselves from deliberations and vote on this appeal.