



*Dawn Michele Bellis*  
*Secretary, Standards Council*

26 August 2022\*

To: Interested Parties

Subject:

|   |                     |
|---|---------------------|
| Standards Council Decision (Final):                                       | <b>D#22-13</b>      |
| Standards Council Agenda Item:  | <b>SC#22-8-24-d</b> |
| Date of Decision:   | 12 August 2022      |
| TIA No. 1661 to NFPA 70®, <i>National Electrical Code</i> ®, 2023 Edition |                     |

Dear Interested Parties:

At its meeting of August 10-12, 2022, 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, reading "Dawn Michele Bellis", is positioned below the word "Sincerely,".

Dawn Michele Bellis  
Secretary, NFPA Standards Council

cc: S. Everett, S. Gallagher, C. Duffy, J. Sargent  
Members, NEC Code-Making Panel 17 (NEC-P17)  
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 defer action on the appeal requesting Council to overturn the Code-Making Panel 17 ballot results and issue TIA No. 1661 to NFPA 70®, *National Electrical Code*®, 2023 Edition.

**DECISION:**

At its meeting of August 10-12, 2022, the Standards Council considered an appeal from Thomas Kilpatrick of Kilpatrick Law Group LLC (on behalf of Travis Brewer and Lonnie Miller). The appellant requests that the Standards Council overturn the Code-Making Panel 17 (Panel 17) ballot results and issue TIA No. 1661 on the 2023 edition of NFPA 70®, *National Electrical Code*®. Specifically, the appeal requests that the Standards Council issue TIA No. 1661, which seeks to revise section 680.26(B)(2)(b).

As background, the Appellant submitted this TIA on behalf of his clients, who contend that the NEC requirements in Section 680.26(B) for reducing voltage gradient around the perimeter of a pool deck are insufficient to provide adequate protection. The TIA was balloted through Panel 17 and the NEC Correlating Committee (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, emergency nature, and correlation for recommendation of issuance. The TIA failed to achieve the necessary support of Panel 17 on both technical merit and emergency nature, but did achieve the necessary support of the CC on correlation.

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 have been several cycles of technical debate over the minimum standard for reducing voltage gradients around the perimeter of a pool, which date back to the 2008 edition of the NEC. The Appellant also raises a concern about what should be considered a safe level of step or touch voltage (potential) in the swimming pool area, although proposed no changes to that effect in this TIA. These issues were the subject of a 2011 Fire Protection Research Foundation (FPRF) project to document the then-current knowledge on this subject and to identify gaps in knowledge. FPRF’s report pointed out the lack of available data and outlined next steps that could meaningfully develop the research based on the knowledge gaps. Through the end of the 2023 NEC revision cycle, the record reflected no further study by any party based on the specific gaps identified in the FPRF report.

The case studies and data presented as substantiation for this TIA and appeal were not submitted to Panel 17 during this revision cycle. Also, in a separate but related appeal on this issue (see SC Decision #22-3), other new, and additional data and studies have come forward since Panel 17 was balloted on the second draft. Council finds that this body of new and additional information requires timely analysis.

In connection with a SC Decision #22-3, the Council has directed the formation of a balanced Task Group to review the material provided by the Appellant and to review the other studies brought forward through

the 2022 Technical Meeting and related appeal on this same issue; namely, the the 2021 U.S. Coast Guard Report, the results of the latest EPRI report (which, Council understands was performed the week prior to August 2022 hearings), the case studies brought forward in connection with this TIA, and any other new and existing reports referenced on this topic. Council directs the Task Group to report the following by November 30, 2022 (in advance of the Council's December 2022 meeting): (1) its findings based on this data; (2) its recommendations, if any, as to the minimum safety standard within the NEC for reducing voltage gradient in the perimeter of a pool; (3) if a change to Article 680 is recommended, whether this TIA No. 1661 would address the Task Group's findings; and (4) any other findings or actions that the Task Group deems necessary based on its analysis.

In light of the pending formation and report from this newly directed Task Group, the Council will defer action on this appeal and TIA No. 1661 to its meeting on December 7-8, 2022. The effect of this decision is that, at this time, the NFPA 70, *National Electrical Code* will not include the text of TIA No. 1661.

Council Members John Kovacik and Rodger Reiswig themselves from the deliberations and vote on this appeal.

Council Members Michael Johnston and Jack Poole were not in attendance during the August 2022 meeting and therefore did not participate in the deliberations and vote on the appeal.