



Dawn Michele Bellis
Secretary, Standards Council

26 August 2022*

To: Interested Parties

Subject:

Standards Council Decision (Final):	D#22-14
Standards Council Agenda Item:	SC#22-8-5-d-1
Date of Decision:	12 August 2022
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 that reads "Dawn Michele Bellis".

Dawn Michele Bellis
Secretary, NFPA Standards Council

cc: S. Everett, S. Gallagher, C. Duffy, J. Sargent
Members, NEC Code-Making Panel 3 (NEC-P03)
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.



Standards Council Decision (Final):	D#22-14
Standards Council Agenda Item:	SC#22-8-5-d-1
Date of Decision:	12 August 2022
NFPA 70®, <i>National Electrical Code</i> ®, 2023 Edition	

SUMMARY OF ACTION (for convenience only; not part of official decision): The Standards Council voted to uphold the appeal to overturn the results of Code-Making Panel 3 and uphold the action of the voting Association Members during the NFPA Technical Meeting on CAM 70-53 to Reject an Identifiable Part of Second Revision No. 8466.

DECISION:

At its meeting of August 10-12, 2022, the Standards Council considered an appeal from George Zimmerman of CME Consulting, Inc. and multiple Code-Making Panel 3 (“CMP 3”) members. The appeal requests that the Standards Council overturn the amendment ballot results of CMP 3 and uphold the action of the voting Association Members during the NFPA Technical Meeting for Certified Amending Motion (“CAM”) 70-53 on the 2023 edition of NFPA 70®, *National Electrical Code*® (NEC®). Specifically, the appeal requests revision of section 722.135(E).

As background, Code-Making Panel 3 voted to approve Second Revision No. 8466 at second draft on section 722.135(E). A Notice of Intent to Make a Motion was filed by Trevor Bowmer, Bunya Telecom Consulting, LLC to Reject an Identifiable Part of Second Revision No. 8466 and was certified by the Motions Committee, then presented for debate during the NFPA Technical Meeting as CAM 70-53. CAM 70-53 achieved the necessary simple majority support of the voting Association Members during the NFPA Technical Meeting. When CAM 70-53 was balloted, it passed the Correlating Committee but failed to achieve the necessary support of CMP 3. The results of the balloting yielded a recommendation to return to previous edition text.¹ Following the close of CMP 3 ballots, Mr. Zimmerman filed an appeal and included the support letter of 17 (out of 18) principal CMP 3 members, as well as 9 alternates, urging the Council to uphold the appeal to Reject an Identifiable Part of Second Revision No. 8466 despite the ballot results.

The text subject to the appeal of CAM 70-53 did not gain sufficient support within the standards development process for inclusion in the 2023 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.

According to the Appellant, CAM 70-53 is one of multiple related CAMs that sought to move optical fiber cable requirements from one article to a different article. The other related CAMs passed CMP 3 ballots, and in that context, the unintended result of CAM 70-53 failing would be that important certain requirements would be removed from the NEC. The Appellant also points to serious safety implications if the optical fiber cable requirements are removed.

The Council has reviewed the entire record concerning this matter and has considered all the arguments

¹ Note: As Article 722 is new in its entirety, there was no previous section 722.135(E) text to which to return.

put forth in this appeal. In the view of the Council, this appeal presents clear and substantial bases upon which to overturn the results yielded by the NFPA standards development process given the overwhelming support of the responsible CMP to accept CAM 70-53. Accordingly, the Council has voted to uphold the appeal. The effect of this action is that the NFPA 70, *National Electrical Code* will include the text of CAM 70-53 (thereby rejecting an identifiable part of Second Revision No. 8466).

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