



*Dawn Michele Bellis*  
Secretary, Standards Council

26 August 2022\*

To: Interested Parties

Subject:

|   |                      |
|---|----------------------|
| Standards Council Decision (Final):                       | <b>D#22-2</b>        |
| Standards Council Agenda Item:                            | <b>SC#22-8-5-k-1</b> |
| 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 6 (NEC-P06)  
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 deny the appeal to overturn the ballot results of Code-Making Panel 6 and uphold the action of the voting Association Members during the NFPA Technical Meeting on CAM 70-63 to Accept Public Comment No. 2028.

**DECISION:**

At its meeting of August 10-12, 2022, the Standards Council considered an appeal from Joseph Andre, Consultant, Sequim, Washington. The appeal requests that the Standards Council overturn the ballot results of Code-Making Panel 6 (“CMP 6”) on Certified Amending Motion (“CAM”) 70-63 for the 2023 edition of NFPA 70®, *National Electrical Code*® (*NEC*®). Specifically, the appeal requests the acceptance of Public Comment No. 2028 to revise section 334.12(A).

As background, Code-Making Panel 6 rejected Public Comment No. 2028 to revise section 334.12(A) during the second draft. A Notice of Intent to Make a Motion was filed by Joseph Andre, JFA Consulting, to Accept Public Comment No. 2028 and was certified by the Motions Committee, then presented for debate during the NFPA Technical Meeting as CAM 70-63. CAM 70-63 achieved the necessary simple majority support of the voting Association Members during the NFPA Technical Meeting. When CAM 70-63 was balloted, it passed the Correlating Committee on correlation but failed to achieve the necessary support of CMP 6. The results of the balloting yielded a recommendation to return to previous edition text.

The text subject to the appeal of CAM 70-63 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.

The Appellant alleged that there were procedural errors during NFPA standards development process: specifically, that a change occurred within the requirements of NFPA 70 based upon changes in definitions of Type IV and Type V buildings in NFPA 5000®, *Building Construction and Safety Code*® and the *International Building Code*®, and the impact of these changes were not fully considered by CMP 6 (either through amending text, public input, committee input or public comment).

The record of CMP 6’s review of changes to the definitions of Type IV and Type V construction is well documented and raised the attention of CMP 6 between revision cycles. CMP 6 formed a task group to review and report on Public Inputs that would affect Article 344. As part of this work, the task group discussed the implications and effect of the amendments within NFPA 5000 and the IBC prior to CMP 6’s First Draft meeting. Based upon task group findings and recommendations, CMP 6 made no revisions to section 334.12(A) at First Draft. The task group continued to meet in preparation for the Second Draft meeting, reviewing research that went into the changes in NFPA 5000 and the IBC to ensure that no safety issues were identified or called for a need to limit NM cable installations based upon height of structures.

At Second Draft, CMP 6 again made no revisions based upon the task group's findings and discussions during the meeting which gave no indication of a known safety issue to support an amendment to limit NM cable installations to a specific height.

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 NFPA 70, *National Electrical Code* will not include the text of CAM 70-63.

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.