



*Dawn Michele Bellis*  
*Secretary, Standards Council*

26 August 2022\*

To: Interested Parties

Subject:

Standards Council Decision (Final):	<b>D#22-6</b>
Standards Council Agenda Item:	<b>SC#22-8-5-j</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, 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 5 (NEC-P05)  
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 results of the voting Association Members during the NFPA Technical Meeting on Certified Amending Motion 70-61 (“CAM 70-61”) and Accept Public Comment No. 490.

**DECISION:**

At its meeting of August 10-12, 2022, the Standards Council considered an appeal from Peter Graser of Copperweld. The appeal requests that the Standards Council overturn the results of the voting Association Members during the NFPA Technical Meeting on CAM 70-61 and Accept Public Comment No. 490 for the 2023 Edition of NFPA 70®, *National Electrical Code*® (“NEC”). Specifically, the appeal requests revision of section 250.62.

As background, Code-Making Panel 5 (“CMP 5”) rejected Public Comment No. 490 at second draft on section 250.62. A Notice of Intent to Make a Motion (“NITMAM”) was filed by Peter Graser to Accept Public Comment No. 490 and was certified by the Motions Committee then presented for debate during the NFPA Technical Meeting as CAM 70-61. CAM 70-61 failed to achieve the necessary simple majority support of the membership during the NFPA Technical Meeting. Mr. Graser filed an appeal with the Council based upon the unsuccessful result of CAM 70-61.

The text subject to the appeal of CAM 70-61 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 Council finds no such basis demonstrated in this matter.

The Appellant was dissatisfied with CMP 5’s response to PC 490 on the grounds that it was “vague” and expressed concern that more expertise on these materials is necessary for full consideration of the technical issues in this Appeal. The record reflects that CMP 5 did respond to the Appellant’s PC 490 with technical justification. CMP 5 also formed a Task Group which included responsibility for evaluating this technical issue. The Appellant was part of this Task Group, but disagreed with the approach for analyzing the technical arguments.

Appellant also asserted that some of the manufacturers on CMP 5 who oppose the inclusion of copper-clad steel 40% as a recognized material for use as a grounding electrode conductor, also belong to other membership organizations represented on CMP 5, and therefore effectively have more than one vote on the panel. Based on the graphic presented by the Appellant in the appeal and during the hearing, it appears that, as it pertains to CMP 5, this argument is focused on two voting principal members, one from Encore Wire, representing the Aluminum Association pursuant to a “directed vote” and the other from ABB Installation Products, Inc., representing the National Electrical Manufacturers Association (NEMA) pursuant to a directed vote. The other two individuals identified as not having an “independent vote” are

alternates on the panel to organizational representatives from the Steel Tube Institute of North America and the Copper Development Association. Each of the identified organizations has a different approach for developing the direction on a vote. NEMA has approximately 325 member companies according to their website, and that includes the Appellant's company, Copperweld. The Copper Development Association has approximately 36 full members and three associate members.

Generally, on the NEC, members who represent a membership organization are valued participants because they bring to bear the collective view of their members (as opposed to the single view of one company). While some of the identified CMP 5 members work for companies who are members of more than one trade or membership organizations, there was no evidence on the record that demonstrated they or their companies were a majority voice in more than one directed vote on CMP 5. The Council notes that CMP 5 is balanced by interest classification, and, the Council acted on an application from Copperweld and appointed a principal and alternate to CMP 5 at its August 2022 meeting.

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 Public Comment No. 490.

Council Members John Kovacik and Rodger Reiswig 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.