



Dawn Michele Bellis
Secretary, Standards Council

26 August 2022*

To: Interested Parties

Subject:

Standards Council Decision (Final):	D#22-7
Standards Council Agenda Item:	SC#22-8-5-p
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 10 (NEC-P10)
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.



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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 70-89/70-109 (“CAM 70-89/70-109”).¹ Specifically, the CAM sought to amend section 215.18(E).

DECISION:

At its meeting of August 10-12, 2022, the Standards Council considered an appeal from James Moellmann of Maxivolt. The appeal requests that the Standards Council overturn the results of the voting Association Members during the NFPA Technical Meeting on CAM 70-89/70-109 and to Accept an Identifiable Part of Public Comment No. 1918 for the 2023 Edition of NFPA 70®, *National Electrical Code*® (NEC®). Specifically, the appeal requests revision of section 215.18(E).

As background, the response of Code-Making Panel 10 (“CMP 10”) to Public Comment No. 1918 was “Reject but see related Second Revision No. 8218.” A Notice of Intent to Make a Motion (“NITMAM”) was filed by James Moellmann to Accept an Identifiable Part of Public Comment No. 1918 and was certified by the Motions Committee then presented for debate during the NFPA Technical Meeting as CAM 70-89/70-109. CAM 70-89/70-109 failed to achieve the necessary simple majority support of the membership during the NFPA Technical Meeting. Mr. Moellmann filed an appeal with the Council based upon the unsuccessful result of CAM 70-89/70-109.

The text subject to the appeal of CAM 70-89/70-109 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 record reflects that CMP 10 acted on and responded to PC 1918 with a technical reason for rejecting the comment. While the Appellant disagrees with the sufficiency of the Panel’s technical justification, the Council declines to substitute its judgement for CMP 10’s technical conclusion. The Appellant also argued that CMP 10 was misplaced in its reliance on a IEEE standard in its technical justification. When presented with the fact that a representative of IEEE (a member of Panel 10 with a directed vote from IEEE) voted to reject PC 1918, the Appellant pointed out that the voting IEEE member represents a different IEEE society. The record reflects continued technical debate on this issue.

¹ Note that CAM 70-89 and 70-109 were pursued as a single motion at the Technical Meeting as approved by the Motions Committee and published in the Report of the Motions Committee on May 2, 2022 at www.nfpa.org/nitmam. Although CAM 70-89 sought to Accept Public Comment No. 582 and CAM 70-109 sought to Accept an Identifiable Part of Public Comment No. 1918, the resulting text of the submitted motions was identical.

The Appellant also expressed concern that the CMP 10 Chair engaged in misconduct by misleading the NFPA membership at the 2022 Technical Meeting by describing the technical issue at hand as “typical” during the debate. Appellant asserts that the issue is in fact “atypical”. Based on the record, Council finds that Appellant had equal opportunity to contradict the characterization during the debate at the Technical Meeting and further found no evidence of misconduct in violation of NFPA’s Guide for Conduct in the use of the word “typical” in that context.

Council encourages the Appellant to continue participating in the standards development process and encourages the Appellant to apply for membership on CMP 10. Additionally, Council encourages CMP 10 to take any additional information provided into consideration should a Tentative Interim Amendment or Public Input to the next revision cycle be filed.

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. 582 and the specified Identifiable Part of Public Comment No. 1918.

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.