Dawn Michele Bellis  
Secretary, Standards Council

11 September 2023*

To: Interested Parties

Subject:

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Dear Interested Parties:

At its meeting of August 23-25, 2023, the Standards Council considered an appeal on the above referenced matter. The Council’s Final decision is now available and is attached herewith.

Sincerely,

Dawn Michele Bellis  
Secretary, NFPA Standards Council

cc: S. Everett, S. Gallagher, Tracy Vecchiarelli, G. Harrington  
Members, CC on Safety to Life (SAF-AAC)  
Members, TC on Interior Finish and Contents (SAF-INT)  
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 (see www.nfpa.org/regs). 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.
SUMMARY OF ACTION (for convenience only; not part of official decision): The Standards Council voted to deny the appeal seeking to overturn the Technical Committee ballot results and issue TIA No. 1728.

DECISION:
At its meeting of August 23-25, 2023, the Standards Council considered appeal from Stanley Harbuck of School of Building Inspection, representing the American Public Health Association (APHA). The appeal requests that the Standards Council overturn the Technical Committee on Interior Finish and Contents (TC) ballot results and issue TIA No. 1728 for the 2024 Edition of NFPA 101®, Life Safety Code®. Specifically, the appeal requests to add a new paragraph 10.7.1.3.

As background, TIA No. 1728 was processed concurrently with the 2024 revision cycle. When balloted, the TIA failed to achieve the necessary ¾ support of the TC, both on technical merit and on emergency nature. The TIA did, however, achieve the necessary support of the Correlating Committee on Safety to Life (CC) on correlation when balloted.

This TIA sought to amend the requirements in Section 10.7 related to modular rooms and sleep pods which were added during the 2024 revision cycle. The responsible TC created First Revision (FR) No. 6583 in response to Public Input (PI) Nos. 299 and 300 submitted on behalf of UL, LLC regarding modular rooms and sleep pods. The statement from the PI submitter discussed a UL listing for fabrication and safety of the modular room and proposed a change “as a means for AHJs to approve these installations.” The TC substantiation statement largely referenced the submitter’s statement and noted that “[t]he new text provides a means for AHJs to approve these installations and allow the use of these prefabricated structures.” There was only one Public Comment (PC) (specifically, No. 10) on this revised section, which was from the Correlating Committee and described as an “[e]ditorial revision…”

At the First Draft meeting of the Correlating Committee, a task group was formed. The Task Group was chaired by Howard Hopper and charged with reviewing the proposed modular room and sleep pod requirements for their applicability and consistency across the Code. The Task Group convened and provided recommendations. At the Second Draft meeting, the CC created Second Correlating Revision (SCR) No. 8, which limited the application of the new Section 10.7 on modular rooms and sleep pods to “newly installed modular rooms and sleep pods lacking sufficient justification for its application to existing conditions.”

The appellant makes several arguments. The first argument is that revised Section 10.7, as proposed through the revision cycle, is inconsistent with the applicable UL standard. The standards development record shows that UL participated in the development of this revision and, notably, proposed the text with reference to the applicable UL standard. UL did not raise any concern regarding inconsistencies with its standard, and in fact, the TC’s statement in developing FR No. 6583 showed reliance on UL’s PIs on modular rooms and sleeping pods.
The appellant also contends that the TC did not fully consider all information presented during the revision cycle. However, the standards development record shows considerable attention to this topic, including the formation of a Correlating Committee task group. Council notes the record shows no Notice of Intent to Make a Motion (NITMAM) on this section following the publication of the Second Draft.

Appellant also asserts that it was improper for a proponent of a proposal to vote on such proposal (e.g., a submitter of a PI, who is also a member of the TC, to vote on the PI). Council wishes to note the Regulations Governing the Development of NFPA Standards (Regs) generally allows for a proponent of a proposal to vote in instances where the submitter is a member of the responsible TC (subject to the Guide for Conduct of Participants in the NFPA Standards Development Process).\(^1\) Section 3.3.3 of the Regs describes that development of NFPA standards is governed, in order of precedence by the Regs, supplemental operating procedures, and finally by Robert’s Rules of Order. In this case, UL was the only submitter of any proposals, and there was no information on the record to demonstrate a reason why UL should have abstained from any vote. No further specifics are reflected in the record as to why the appellant believed it was improper for a proponent to vote on a proposal.

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 record does not reflect a reason for Council to substitute its technical judgment for the TC’s position.

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 2024 edition of NFPA 101, Life Safety Code will not include the text proposed by TIA No. 1728.

Council Members James Quiter and Dwayne Sloan recused themselves from the deliberations and vote on this appeal.

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\(^1\) This is not absolute. For example, if a TC member is classified as a Special Expert and is hired by an outside organization to represent such organization’s interests on the TC, the Special Expert is required under the Guide for Conduct to abstain from voting on any matter pertaining to such representation.