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COMMONWEALTH OF MASSACHUSETTS

STANDARDS COUNCIL MEETING

MEETING BEING HELD REMOTELY

VIA MICROSOFT TEAMS

Wednesday, December 2, 2020

Commencing at 10:33 a.m.

## 1 APPEARANCES

2  
3 Standards Council:

4 James E. Golinveaux, Chair

5 Chad E. Beebe, Member of Council

6 Kenneth E. Bush, Member of Council

7 Michael A. Crowley, Member of Council

8 Jeffrey J. Foisel, Member of Council

9 Patricia A. Gleason, Member of Council

10 Michael J. Johnston, Member of Council

11 Gary S. Keith, Member of Council

12 John R. Kovacik, Member of Council

13 Jack Poole, Member of Council

14 James R. Quiter, Member of Council

15 Rodger Reiswig, Member of Council

16 Kenneth W. Richards, Jr., Member of Council

17

## 18 NFPA Staff:

19 Dawn Michele Bellis

20 Suzanne Gallagher

21 Christian Dubay

22 Barry Chase

23 Chad Duffy

24 Laura Moreno

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**APPEARANCES (Cont'd)**

**NFPA Staff (Cont'd):**

- Tracy Vecchiarelli
- Kevin Carr
- Stephen Gano
- Gregory Harrington
- Jeffrey Sargent
- Mary Maynard
- Delisa Flemming

**Speakers:**

- Joseph Andre
- Randy Cooper
- Rob Early
- Steve Berry
- Jeremy Souza

**Also present:**

- Matt Williams
- Ryan Manor
- Michael Frantz
- John Litner
- Randy Harrison

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**APPEARANCES (Cont'd)**

**Also present (Cont'd):**

**Dale Crawford**

**Tom Boriak**

**Court reporter:**

**Sharon G. Saalfield, LCR No. 147, MA CSR, RDR, CRR**

	<b>INDEX</b>	
		<b>PAGE</b>
1		
2		
3	MR. GOLINVEAUX	6
4	20-12-10-d	9
5	MR. ANDRE	15
6	QUESTIONS BY COUNCIL	23
7	SUMMARY BY MR. ANDRE	27
8	20-12-15-d	30
9	MR. COOPER	36
10	QUESTIONS BY COUNCIL	41
11	SUMMARY BY MR. COOPER	46
12	20-12-18-d	49
13	MR. EARLY	56
14	QUESTIONS BY COUNCIL	61
15	SUMMARY BY MR. EARLY	66
16	20-12-21-d	69
17	MR. BERRY	75
18	MR. SOUZA	79
19	QUESTIONS BY COUNCIL	83
20	SUMMARY BY MR. BERRY	103
21	SUMMARY BY MR. SOUZA	104
22		
23		
24		

1  
2  
3  
4  
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P R O C E E D I N G S

MR. GOLINVEAUX: All right. So as a first order agenda, what I'd like to do is have the guests introduce themselves for the record, and that way, we'll have that on the official record. I'll be reading each motion about the process, and the meeting will be recorded. There's a court reporter that will be recording all of the information as well, and about the rules of the meeting as well as about no recordings and other things. But before I get to that, I'd like the guests to introduce themselves. So if the guests would raise your hand -- I think that'd be the easiest way -- then I can call on you individually. You'll come to the top of my screen, and I'll make sure you get introduced and on the record.

So if the guests to the meeting would raise your hand, then I will -- okay, I'm going to start with Steve Berry.

MR. BERRY: Hi. Good morning. Steve Berry, manager of fuel quality and safety for the National Air Transportation Association.

MR. GOLINVEAUX: Okay. And for the guests, you know, when we come to your issue, if you have any --

1 I'm getting feedback now, so you've got to be  
2 careful on remote speakers or cell phones. I don't  
3 know if other people are hearing the feedback. But,  
4 Steve, welcome. Joe Andre?

5 MR. ANDRE: Thank you. My name is Joe Andre.  
6 I'm an independent consultant to the electrical  
7 industry, representing myself.

8 MR. GOLINVEAUX: Okay. Joe, welcome. Randy  
9 Cooper?

10 MR. COOPER: Good morning. I'm Randy Cooper.  
11 I'm the vice president of technical operation and  
12 standards for the Association of Home Appliance  
13 Manufacturers.

14 MR. GOLINVEAUX: Good morning, Randy. Rob  
15 Early?

16 MR. EARLY: Hi. Good morning, everybody. I'm  
17 Rob Early, technical manager with the Compressed Gas  
18 Association.

19 MR. GOLINVEAUX: Okay. Good morning. Jeremy  
20 Souza?

21 MR. SOUZA: Good morning. Jeremy Souza from --  
22 a consultant from Code Red Consultants in  
23 Massachusetts.

24 MR. GOLINVEAUX: Jeremy, welcome. Matt

1 Williams?

2 MR. WILLIAMS: I'm Matt Williams, director of  
3 standards and project management from Association of  
4 Home Appliance Manufacturers.

5 MR. GOLINVEAUX: Good morning. Ryan Manor?

6 MR. MANOR: Hopefully I'm off mute now. Yeah,  
7 Ryan Manor with Phillips 66, director of fuel  
8 quality and innovation, and also committee chair for  
9 the NATA committee on general aviation.

10 MR. GOLINVEAUX: Okay. Good morning. Mike  
11 Frantz?

12 MR. FRANTZ: Good morning. Michael Frantz,  
13 managing director of safety and training with the  
14 National Air Transportation Association.

15 MR. GOLINVEAUX: Okay. Are there any other  
16 guests that I have not recognized?

17 UNIDENTIFIED: Yeah, John is there. He's got  
18 his hand up.

19 MR. GOLINVEAUX: I'm sorry, who is that?

20 MR. LITNER: This is John Litner with Epic  
21 Fuels.

22 MR. GOLINVEAUX: Okay, John. I don't know why  
23 you're not showing up on my hands-up screen, but  
24 sorry I didn't get to you. Yeah, sometimes in a



1 Teams meeting it's difficult. The hands function  
2 doesn't work in some versions of Teams, so if that's  
3 the case, don't hesitate to let me know. So, John,  
4 welcome.

5 Any other guests?

6 MR. HARRISON: This is Randy Harrison, quality  
7 insurance manager with Avfuel Corporation.

8 MR. GOLINVEAUX: Okay. I see Dale Crawford.  
9 Did I get to Dale?

10 MS. BELLIS: No.

11 MR. GOLINVEAUX: Okay.

12 MR. CRAWFORD: No. This is Dale Crawford, the  
13 director of conduit for the Steel Tube Institute.

14 MR. GOLINVEAUX: All right. Dale, welcome.  
15 And, Steve and Randy, you both still have your hands  
16 up. If you could take those down, then I know I've  
17 got to you guys.

18 Any further guests that have joined us that I  
19 have not recognized or introduced themselves?

20 All right. Hearing none, I am going to start  
21 the process here. The first item of appeal is on  
22 the agenda for standards council 20-12-10-d, as in  
23 David. It's an appeal on NFPA 70, TIA 1478.

24 HEARING ON 20-12-10-d

1           MR. GOLINVEAUX: I'll start this off with good  
2 morning. My name is James Golinveaux. It is my  
3 distinct pleasure to serve as chair of the NFPA  
4 Standards Council and welcome you. I'm going to  
5 call this hearing to order.

6           In a moment, I'll have everyone introduce  
7 themselves by stating their name and affiliation,  
8 but before we do that, I want to remind everyone  
9 that we have a stenographer online with us today who  
10 is transcribing these hearings. So from this  
11 standpoint, it is important that each of you, when  
12 you make your remarks, state your name and your  
13 affiliation so the stenographer may accurately  
14 capture that information for the record.

15           In addition, for those who will be speaking, I  
16 ask that you forward your name as you wish it to  
17 appear in the record, as well as your affiliation,  
18 to Mary Maynard, if you have not done so already, so  
19 we can spell your name correctly in the record. Her  
20 direct email is M as in Michael, M as in Michael,  
21 A-Y-N-A-R-D, @NFPA.org.

22           Other than the stenographer, no other recording  
23 is allowed. This includes no recording through  
24 Teams and no recording through any other devices.

1 For those who are guests of these hearings, please  
2 turn off your video. Doing so will preserve the  
3 bandwidth for those actively participating in the  
4 hearing and minimize delay issues. Participation in  
5 the hearing is limited to those individuals who have  
6 previously requested an opportunity to be heard.

7 Also, a couple of notes regarding Teams  
8 platform. Please do not utilize the chat feature as  
9 any -- as any conversation, statements, or questions  
10 posted are not part of the hearing record and will  
11 not be considered by council during the  
12 deliberations. Additionally, although the raised  
13 hand feature is active, as chair, I will only be  
14 recognizing those previously identified to  
15 participate in each of the respective hearings.

16 Appeal hearings are scheduled for today,  
17 December 2nd, 2020, and the plan is to move from one  
18 hearing to the next, with breaks if necessary.

19 We'll start with the introduction of council  
20 members themselves. My name is James Golinveaux,  
21 chair of the standards council.

22 MR. BEEBE: I'm Chad Beebe, member of council.

23 MR. CROWLEY: Mike Crowley, member of council.

24 MR. BUSH: Kenneth Bush, member of council.

1 MR. FOISEL: Jeff Foisel, member of council.

2 MS. GLEASON: Patricia Gleason, member of  
3 council.

4 MR. GOLINVEAUX: Okay. Mike? You may have  
5 been on mute. Mike Johnston? He's still on mute.  
6 And, Mike, I'm not getting you here, so I'll move on  
7 with Gary and then we'll come back to Mike as he  
8 figures it out.

9 MR. KEITH: Gary Keith, member of council.

10 MR. KOVACIK: John Kovacik, member of council.  
11 For the record, I am recusing myself on this agenda  
12 item and I will not participate as a member of the  
13 standards council in the hearing deliberations or  
14 voting on this matter.

15 MR. GOLINVEAUX: Thank you.

16 MR. POOLE: Jack Poole, member of council.

17 MR. QUITER: James Quiter, member of council.

18 MR. REISWIG: Roger Reiswig, member of council.

19 MR. RICHARDS: Kenneth Richards, member of  
20 council.

21 MR. GOLINVEAUX: Okay. I'm moving to staff.  
22 Dawn? Or if Mike -- Mike, have you gotten back on?  
23 Mike Johnston?

24 MR. JOHNSTON: Yes, I relogged in. Can

1 everybody hear me?

2 MR. GOLINVEAUX: Yes, we can hear you.

3 MR. JOHNSTON: My name's Mike Johnston. I'm a  
4 member of council. For the record, I am recusing  
5 myself on this agenda item, and I will not  
6 participate as a member of the standards council in  
7 the hearing, deliberations, or voting in this  
8 matter.

9 MR. GOLINVEAUX: Thank you, Mike. Moving on to  
10 staff. Dawn?

11 MS. BELLIS: Dawn Michele Bellis, NFPA staff.

12 MS. GALLAGHER: Suzanne Gallagher, NFPA staff.

13 MR. DUBAY: Christian Dubay, NFPA staff.

14 MR. CHASE: Barry Chase, NFPA staff.

15 MS. MORENO: Laura Moreno, NFPA staff.

16 MS. VECCHIARELLI: Tracy Vecchiarelli, NFPA  
17 staff.

18 MR. CARR: Kevin Carr, NFPA staff.

19 MR. GANOE: Stephen Ganoe, NFPA staff.

20 MR. HARRINGTON: Gregory Harrington, NFPA  
21 staff.

22 MS. FLEMMING: Delisa Flemming, NFPA staff.

23 MS. MAYNARD: Mary Maynard, NFPA staff.

24 MR. GOLINVEAUX: Okay. Is there anyone that

1 was not recognized that needs to introduce  
2 themselves for the record?

3 Okay. Seeing none, from a process standpoint,  
4 the general approach we'll take today is to allow 10  
5 minutes for each side to make an opening remark and  
6 then we'll open the floor for questions from council  
7 members. Please wait for me to recognize you before  
8 speaking to ensure that all comments and questions  
9 are heard for accurate recording. Once all  
10 questions are addressed to the satisfaction of  
11 council, we'll move to closing remarks. Five  
12 minutes have been allocated for closing remarks for  
13 each side. Following closing remarks, the hearing  
14 will conclude.

15 As a reminder, in accordance with the  
16 regulations governing the development of NFPA  
17 standards, section 3.3.3.4, meetings shall not be  
18 recorded verbatim by any means other than authorized  
19 by the standards council secretary. For the  
20 purposes of hearings, the secretary has authorized  
21 the recording by a stenographer, but any other  
22 recording of this hearing is prohibited.

23 Does anyone have any questions at this point?

24 Seeing none, this hearing is related to the

1 agenda item 20-12-10-d, as in David, to overturn the  
2 ballot results and issue the TIA 147 recommended by  
3 the technical committee, NEC Code-Making Panel 6, on  
4 NFPA 70.

5 So what I'm going to do now is move into the  
6 opening statement. I believe that's going to be by  
7 Joseph Andre. And, Joseph, you're going to have 10  
8 minutes. I will go ahead and have Mary unmute your  
9 microphone so that you have the 10 minutes to  
10 present your argument to the council.

11 Okay, I'm not hearing you yet. Mary?

12 MR. ANDRE: Hopefully that works. Sir, can you  
13 hear me?

14 MR. GOLINVEAUX: I can hear you now.

15 MS. MAYNARD: Okay. Thank you.

16 MR. ANDRE: Thank you, Mr. Chairman and members  
17 of the standards council. It's my privilege to be  
18 here before you today. My name is Joe Andre --  
19 Joseph, officially on the record. I am a consultant  
20 to the electrical industry. I'm here today  
21 representing myself. My background has been an  
22 electrician contractor. I've been an inspector for  
23 two different jurisdictions. I currently sit on  
24 Code-Making Panel 5 to the National Electrical Code.

1 I'm going into my third cycle. I have also sat on  
2 Code-Making Panel 1. And I would like to clarify  
3 that I am not representing any specific  
4 organization. I believe the agenda had me under the  
5 Steel Tube Institute. While they are one of my  
6 clients, they are not the only client, and I'm here  
7 today representing myself, so I'd like the record to  
8 reflect that.

9 MR. GOLINVEAUX: Okay.

10 MR. ANDRE: Throughout the processing of this  
11 TIA, I would like to address the fact that there has  
12 been a tremendous amount of information through  
13 comments, through hearings at the code panel and the  
14 correlating committee. I'm not going to try, by any  
15 means, to recreate any of that. Hopefully, I won't  
16 take anywhere near my 10 minutes, but there are some  
17 issues and points that I would like to make.

18 First of all, I would like to note that  
19 virtually every comment that came back for and  
20 against this TIA addressed, in one way or another, a  
21 technical issue. My intent with this was not to  
22 create a technical discussion. My intent here is to  
23 open a discussion on the process of how we got here.  
24 The technical arguments I am requesting to be



1           disregarded. They're not part of this -- the intent  
2           of what I'm doing. The place for those arguments  
3           should be at the technical panels. The NFPA 70 is  
4           currently in its -- the beginning of its revision  
5           cycle anyway, and Panel 6 will be hearing arguments  
6           on this issue here shortly.

7           I want to talk about the confusion of some of  
8           the other comments that I've seen come through on  
9           this TIA. It seems that there is some confusion  
10          about what we're trying to do or what I am trying to  
11          do. I believe this issue is unique and without  
12          precedent. In my many years of experience -- this  
13          is going into my 50th year in the electrical  
14          industry -- I don't believe there's ever been an  
15          instance when a different code, much less two  
16          different codes, have altered drastically the  
17          application of the National Electrical Code.

18          What I'm talking about, of course, is the NFPA  
19          5000, and also the International Building Code, have  
20          drastically changed and modified their definitions  
21          of type 4 construction. We're talking about  
22          nonmetallic sheath cable, a wiring method that has  
23          been used ubiquitously for dwellings, and, in some  
24          cases, other than dwelling units.

1           Those two modifications have changed the NEC,  
2           ironically, without changing the wording of the NEC.  
3           Because the NEC references type 4 construction, but  
4           doesn't define it, that was left to the auspices of  
5           two different code-making organizations.

6           And we can talk about the fact that the  
7           International Building Code is not part of the NFPA  
8           family, but I would like to make a note that it is  
9           the most used building code in the country, NFPA  
10          5000B and another.

11          I'm also requesting through this appeal to make  
12          this retroactive back to 2002 NEC. And I know  
13          that's an unusual request, but it's not without  
14          precedent. In fact, there was a TIA request to this  
15          very section back in 2018, early 2019, and the  
16          standards council did agree that it was relevant to  
17          make that applicable all the way back to 2002. That  
18          TIA was denied on some technical wording, so that's  
19          why I brought this back. I think it's very  
20          important to NFPA and to the electrical industry.

21          The background in Annex E of the National  
22          Electrical Code explains, even in the 2020 edition,  
23          that type 4 construction is basically mass timber or  
24          heavy timber, depending on -- or HH, in the NFPA

1           5000, and then it is basically a one type of  
2           construction and that there's nothing else. It also  
3           states that for residential, it is limited to four  
4           stories. And if you look in other documents, it  
5           will tell you that five stories -- and going back  
6           into the historical record on this, it was  
7           understood that five- and maybe six-story buildings  
8           would be allowed.

9           The 2002 National Electrical Code, I would like  
10          to point out, during the technical process, denied  
11          changing from a three-story limitation to the  
12          construction type. The code panel denied it. The  
13          membership denied it. The technical correlating  
14          committee denied it. That was overturned on appeal  
15          to the standards council, and, therefore, it went  
16          into the 2002 NEC for type 4 -- 3, 4, and 5  
17          construction.

18          The problem with that is that action left open  
19          the National Electrical Code to modification by a  
20          different process. And that's what happened and  
21          that's why I'm here today. It wasn't the intent. I  
22          went back and looked at the record for the standards  
23          council appeal for the 2002 NEC, and it stated,  
24          quite clearly, that the intent was a very slight

1           edition or expansion of the use of an "M" cable. It  
2           was understood that it was to be used, or allowed to  
3           be used, in four-story residential and five- and  
4           maybe six-story nonresidential, depending on whether  
5           it was sprinklered or not.

6           We stand today with two building codes that  
7           allow type 4 construction, under a new technique  
8           called mass timber, to go up to 18 stories or 24  
9           stories, IBC or NFPA 5000, respectfully. That was  
10          done without any hearings or process through the  
11          NFPA process. The experts on the code panel did not  
12          get a chance to discuss this. It happened after the  
13          processing of the last edition. The correlating  
14          committee did not get a chance to discuss it fully,  
15          the membership did not, nor did the general public  
16          have an opportunity. So this is strictly on  
17          process.

18          The documentation that has gone through this  
19          process, many people have said it's safe. Many  
20          people have said it's unsafe. My position is I  
21          don't know if it's safe or not because we haven't  
22          had a chance to determine that. It has not gone  
23          through the proper process for changing the NEC.

24          So I've got some talking points and then I will

1 rest my opening statement.

2 I just talked about prior to the NFPA 70 2002  
3 edition, it was restricted to buildings not to  
4 exceed three stories in height, other than one- and  
5 two-family dwellings, and it's hard to get those to  
6 exceed three stories anyway.

7 There were changes to the height restriction  
8 submitted to the technical panels. Those were  
9 rejected by the technical panel but they were  
10 rejected by the correlating committee, and they were  
11 rejected by the general membership on the floor of  
12 the technical meeting. We went through the fact  
13 that standards council accepted an appeal to  
14 overturn those technical decisions and create a  
15 situation where we were going to depend on building  
16 code definitions for type 3, 4, and 5 construction.

17 Annex E, again, is inconsistent now with what  
18 the building code says for type 4 construction. It  
19 states quite clearly that it's a single construction  
20 type and limited to four stories under the  
21 current -- the proposed building codes. That's not  
22 going to be the case anymore. So there will be an  
23 inconsistency in the code, nor in the National  
24 Electrical Code do we have a criteria for what type

1 4 is, so we rely on the building code. We rely on  
2 an informational note. We rely on Annex E for  
3 direction on how to use this wiring method.

4 I would like to know that subsequent to my  
5 appeal -- actually, to my submission of this TIA,  
6 NFPA 5000 was also certified, and my TIA doesn't  
7 even include the wording and the consideration for  
8 NFPA 5000. That was not done when my TIA was  
9 submitted. So there's going to be some language  
10 issues here that the two building codes that we're  
11 talking about don't use exactly the same language.

12 MR. GOLINVEAUX: Joe, your 10 minutes have  
13 expired. Do you want to summarize or conclude very  
14 quickly?

15 MR. ANDRE: Yes. I'd like to conclude by  
16 saying that I think this is urgent for the fact that  
17 we are here dealing with a situation where the NEC  
18 is being changed without going through the process,  
19 and I think there is nothing more urgent in my  
20 entire career than maintaining the integrity of the  
21 process that we have all recognized. Thank you.

22 MR. GOLINVEAUX: All right, Joseph. Thank you  
23 very much. I'm going to open it up for questions  
24 from council. And if council wants to use the raise

1 hand feature, that'll be fine. I'll try to scroll  
2 through this. And I apologize if it takes me a  
3 second to get to you. Mr. Quiter.

4 MR. QUITER: Jim Quiter, member of council.

5 I guess one of my questions is is there really  
6 a need to go back six editions when this is a pretty  
7 new issue that has been raised? And most people, if  
8 they're updating their building codes, are also  
9 updating their NEC.

10 MR. ANDRE: Yeah. Thank you for the question.  
11 And I think that is important. I'm on the West  
12 Coast. The states of Washington, Oregon, and  
13 California have already recognized this new  
14 construction type even though they have not adopted  
15 the most current edition of that code. I can't tell  
16 you if there are buildings being built to it today.  
17 I don't have access to every single jurisdiction.  
18 But, with that, and anticipating that many other  
19 jurisdictions will adopt these provisions even  
20 before they adopt the most recent editions of the  
21 building codes, we have wording in the NEC going  
22 from 2002 consecutively to 2020 that is unchanged.  
23 We're in a unique position where if we don't  
24 change in the word in the code, the words in the

1 code, the code will change drastically. In order to  
2 keep the NEC the same as it was issued by the  
3 standards council for 2020 and all prior editions  
4 back to 2002, we need to change the wording to make  
5 it clear that the mass timber construction, that is  
6 a brand-new technique, was never intended and never  
7 included in those discussions, and it wasn't  
8 included in the intent for the NEC.

9 So we're in a very unique position of saying if  
10 we leave the code unchanged, it will change  
11 drastically, and if we accept something similar to  
12 my TIA, then we will maintain the integrity of the  
13 code as it was issued for 2020 and prior editions.

14 MR. GOLINVEAUX: Okay. Jim, is that -- are you  
15 good with that?

16 MR. QUITER: Yeah, that's fine.

17 MR. GOLINVEAUX: Mr. Andre, a question from me  
18 about the -- your claim of an ANSI process, and I  
19 just -- just for my own clarity, your TIA recommends  
20 adding HT, this construction type. It doesn't  
21 recommend any deletion. So what do you feel wasn't  
22 in accordance with the ANSI process by Code-Making  
23 Panel 6 when you're not striking any text, you're  
24 only adding text?



1           MR. ANDRE: Mr. Chairman, my reference to the  
2           ANSI process was actually directed towards the  
3           International Building Code. The ICC, the  
4           International Code Council does not use an ANSI  
5           process for theirs. It wasn't directed towards the  
6           NEC.

7           MR. GOLINVEAUX: Okay. I was -- I just wanted  
8           to make sure I understood that clearly. Chad Beebe.

9           MR. BEEBE: Yeah. Chad Beebe, member of  
10          council.

11          I wanted to clarify something you said earlier.  
12          You said that the change was not vetted by any  
13          committee. I wanted to clarify. Are we talking  
14          about the change to the heavy timber and the stories  
15          was not vetted by any committee, or are you just  
16          talking about the changes, or the impact of those  
17          changes, on how those would reflect on the NEC?

18          MR. ANDRE: Good question. I'm talking about  
19          how they reflect on the NEC. Certainly, NFPA 5000  
20          went through the NFPA process. It's an  
21          ANSI-accredited process. The IBC went through their  
22          process. It's not ANSI accredited, but they  
23          certainly did a great deal of discussion and  
24          research. None of that research involves wiring

1 methods or even consideration of electrical. I have  
2 talked to several building officials in my area who  
3 are active in the IBC process, and they verified  
4 that wiring methods never was part of the discussion  
5 or part -- nor part of the research that went into  
6 the mass timber.

7 So when I say it wasn't vetted, these issues  
8 came up after the process was completed, at least  
9 for the second revision for the National Electrical  
10 Code, which never had an opportunity to discuss it.

11 MR. GOLINVEAUX: Okay. And I'm going to --  
12 Joe, I'm going to pick on you just a little bit, and  
13 remind. Before you speak, you need to reintroduce  
14 yourself just for the court reporter. So thanks for  
15 doing that. And for future appeals, everyone needs  
16 to introduce themselves each time they speak.

17 Are there any other questions? Oh, yes, I have  
18 a question from Mr. Quiter again.

19 Jim, you're muted.

20 MR. QUITER: Indeed I was muted. Jim Quiter,  
21 member of council.

22 Do you know if there were any discussions at  
23 the NFPA 5000 hearings or the -- or the IBC hearings  
24 about this issue, the fact that revising the

1 definition of type 4 changed the electrical  
2 requirements?

3 MR. ANDRE: Joe Andre, consultant, responding.

4 Mr. Quiter, I can verify that no discussion was  
5 had at the IBC hearings. I have talked to a  
6 Mr. John Siu. He is a structural engineer. He is  
7 the chief -- or the building official for the city  
8 of Seattle, and he's also a member of the committee  
9 on IBC. And he verified that there were absolutely  
10 no discussion. There was no mention of it in the  
11 reams of research that went into that. NFPA 5000, I  
12 honestly cannot tell you one way or the other  
13 whether there was discussion, so I will leave that  
14 at that. Thank you.

15 MR. GOLINVEAUX: Okay. Thank you. Jim, are  
16 you -- are you good?

17 MR. QUITER: Happy with that, yes.

18 MR. GOLINVEAUX: Okay. Thank you. I'm not  
19 seeing any further questions from council. Are  
20 there any further questions from council before I  
21 summarize?

22 Seeing none, Mr. Andre, I am going to recognize  
23 you again for a five-minute summary of your appeal.

24 MR. ANDRE: Thank you, Mr. Chairman. Again,

1 Joe Andre, consultant. I'm just going to summarize,  
2 hopefully briefly.

3 I think I've laid out the reasoning and why  
4 this is urgent. I feel it's urgent -- and that was  
5 a big piece -- for two reasons: One, there are  
6 already jurisdictions that have adopted the new  
7 provisions for mass timber, which is going to allow  
8 a wiring method that we haven't discussed. We  
9 haven't verified that it's safe or unsafe. And I  
10 think in my 12 years as an enforcer of the codes, if  
11 it hasn't been checked, then it's considered to be  
12 unsafe until it's proven to be safe.

13 The second one is if we don't do something  
14 right now, we're basically saying that the NEC --  
15 it's okay to change the NEC through a different  
16 process without the technical expertise that we have  
17 on the NEC code panels. I think that's the most  
18 urgent thing that's happened in the 50 years that  
19 I've been in this industry.

20 I would also like to note that while we never  
21 achieved the majority on the technical panels  
22 necessary to move this forward, that we did receive  
23 a simple majority on both the correlating committee  
24 and Code-Making Panel 6.

1                   And with that, I will conclude. Thank you very  
2 much for your time.

3                   MR. GOLINVEAUX: Thank you, Mr. Andre. And  
4 I'll scold myself here. I'm not introducing myself  
5 as I'm speaking, so James Golinveaux, chair of  
6 council.

7                   As we conclude the hearing, let me inform as to  
8 what happens next. The council will deliberate and  
9 reach a decision in executive session. Once a  
10 decision is made, that decision, including the  
11 background of any other information council believes  
12 relevant, will be prepared by NFPA staff and  
13 published by the secretary of the standards council  
14 on the standards council web page, [www.nfpa.org/sc](http://www.nfpa.org/sc),  
15 and in accordance with the regulations governing the  
16 development of NFPA standards. Additionally, the  
17 decision will be sent to the appellants and the  
18 chair of the responsible committees directly. The  
19 official opinion of the decision of council is that  
20 as published by the secretary, and no other  
21 communication shall be considered the council's  
22 decision or position. Any questions regarding the  
23 decision should be addressed with the secretary.

24                   On behalf of the NFPA standards council, I'd

1 like to thank all of those who participated in this  
2 appeal hearing. Your involvement, as well as all  
3 stakeholders, is important to the NFPA standards  
4 development process. This hearing is now ended.

5 If this concludes the business for which you  
6 have joined us today, you are welcome to leave the  
7 meeting at this time or remain on for additional  
8 hearings.

9 HEARING ON 20-12-15-d

10 .MR. GOLINVEAUX:. Okay. We're going to stay on  
11 the record, and I am going to move to 20-12-15-d.

12 . . Okay. So moving on. On 20-12-15-d, as in  
13 David, TIA 1537. Good morning. My name is James  
14 Golinveaux. It is my distinct pleasure to serve as  
15 chair of the NFPA standards council and welcome you.  
16 I am going to call this hearing to order.

17 In a moment, I will have everyone introduce  
18 themselves by stating their name and affiliation,  
19 but, before we do that, I want to remind everyone  
20 that we have a stenographer online with us today who  
21 is transcribing these hearings. So from this  
22 standpoint, it is important that each of you, when  
23 you make your remarks, state your name and  
24 affiliation so the stenographer may accurately

1 capture your information for the record.

2 In addition, for those who will be speaking, I  
3 will ask that you forward your name as you wish it  
4 to appear in the record, as well as your  
5 affiliation, to Mary Maynard, if you haven't done so  
6 already so that we can spell your name correctly in  
7 the record. Her direct email is M as Michael, M as  
8 in Michael, A-Y-N, as in Nancy, A-R-D at nfpa.org.

9 Other than the stenographer, no other recording  
10 is allowed. This includes no recording through  
11 Teams and no recording of any other devices. For  
12 those who are guests for these hearings, please turn  
13 off your video. Doing so will preserve the  
14 bandwidth for those actively participating in the  
15 hearings and minimize delay issues. Participation  
16 in the hearing is limited to those individuals who  
17 have previously requested an opportunity to be  
18 heard.

19 Also, a couple of notes regarding the Teams  
20 platform. Please do not utilize the chat feature as  
21 any conversations, statements, or questions posted  
22 are not part of the hearing record and will not be  
23 considered by council during deliberations.  
24 Additionally, although the raise hand feature is

1 active, as chair, I will only be recognizing those  
2 previously identified as participants to each  
3 respective hearing.

4 Appeal hearings are scheduled for today,  
5 December 2nd, 2020, and the plan is to move from one  
6 hearing to the next with breaks if necessary.

7 We'll start with the introductions of council  
8 themselves. My name is James Golinveaux, chair of  
9 standards council.

10 MR. BEEBE: Chad Beebe, member of council.

11 MR. BUSH: Kenneth Bush, member of council.

12 MR. CROWLEY: Michael Crowley, member of  
13 council.

14 MR. FOISEL: Jeffrey Foisel, member of council.

15 MS. GLEASON: Patricia Gleason, member of  
16 council.

17 MR. JOHNSTON: Mike Johnston, member of  
18 council. For the record, I am recusing myself on  
19 this agenda item and I will not participate as a  
20 member of the standards council in the hearing,  
21 deliberations, or voting on this matter. Thank you.

22 MR. KEITH: Gary Keith, member of council.

23 MR. KOVACIK: John Kovacik, member of council.

24 For the record, I am recusing myself on this agenda



1 item and I will not participate as a member of the  
2 standards council in the hearing, deliberations, or  
3 voting on this matter.

4 MR. GOLINVEAUX: Jack?

5 MR. POOLE: Jack Poole, member of council.

6 MR. QUITER: James Quiter, member of council.

7 MR. REISWIG: Roger Reiswig, member of council.

8 MR. RICHARDS: Kenneth Richards, member of  
9 council.

10 MS. BELLIS: Dawn Michele Bellis, NFPA staff.

11 MS. GALLAGHER: Suzanne Gallagher, NFPA staff.

12 MR. DUBAY: Christian Dubay, NFPA staff.

13 MR. CHASE: Barry Chase, NFPA staff.

14 MS. MORENO: Laura Moreno, NFPA staff.

15 MS. VECCHIARELLI: Tracy Vecchiarelli, NFPA  
16 staff.

17 MR. CARR: Kevin Carr, NFPA staff.

18 MR. GANOE: Stephen Ganoe, NFPA staff.

19 MR. HARRINGTON: Gregory Harrington, NFPA  
20 staff.

21 MR. GOLINVEAUX: I had two people over each  
22 other on that last one. Let's go back. After  
23 Stephen Ganoe was?

24 MR. HARRINGTON: Gregory Harrington, NFPA

1 staff.

2 MR. GOLINVEAUX: Okay.

3 MS. FLEMING: Delisa Flemming, NFPA staff.

4 MR. GOLINVEAUX: There we go.

5 MS. MAYNARD: Mary Maynard, NFPA staff.

6 MR. SARGENT: Jeff Sargent, NFPA staff.

7 MR. GOLINVEAUX: Jeff. Are there any other  
8 guests that did not introduce themselves earlier  
9 that have joined the meeting?

10 Not seeing any. I'm just checking my hand  
11 raising here in case they're muted. Okay. Looks  
12 good.

13 From a process standpoint, the general approach  
14 we will take today is to allow 10 minutes for each  
15 side to make an opening remark and then we'll open  
16 the floor to questions from the council members.  
17 Please wait for me to recognize you before speaking  
18 to ensure that all comments and questions are heard  
19 for accurate recording. Once all questions are  
20 addressed to the satisfaction of the council, we'll  
21 move to the closing remarks. Five minutes have been  
22 allocated for closing remarks for each side.  
23 Following closing remarks, the hearing will  
24 conclude.

1           As a reminder, in accordance with the  
2 regulations governing the development of NFPA  
3 standards, section 3.3.3.4, meetings shall not be  
4 recorded verbatim by any means other than by  
5 authorized by the standards council secretary for  
6 the purposes of hearings, the secretary has  
7 authorized recording by the stenographer, but any  
8 other recording of this hearing is prohibited.

9           Does anyone have any questions at this point?

10          Okay. If not, let's go ahead and begin. This  
11 is a hearing related to the agenda item 20-12-15-d,  
12 as in David, to overturn the ballot results and  
13 issue the TIA 1521 for the NEC Code-Making Panel 2  
14 on NFPA 70.

15          And I have the appeal was filed by Bennett  
16 Williams, but I have a note that Randy Cooper will  
17 be speaking to this agenda item. Randy, is that  
18 correct?

19          MR. COOPER: That is correct.

20          MR. GOLINVEAUX: Okay. Randy, just give me a  
21 second here and I'll get the 10-minute start time  
22 here. So, Randy, you have 10 minutes to speak to  
23 the council on your appeal. Please begin.

24          MR. COOPER: Okay. Thank you, Mr. Chair, and

1 thank you to the standards council for this  
2 opportunity. I do want to clarify that the chairman  
3 did use 1521 as the TIA. This is on TIA 1537.

4 MR. GOLINVEAUX: Randy, I'm going to back you  
5 up. Please introduce yourself and your affiliation  
6 as you begin this. Sorry. I'll start you again.  
7 Go ahead.

8 MR. COOPER: Sorry. Hello. This is Randy  
9 Cooper, vice president of technical operations  
10 standards for AHAM.

11 I want to thank the chair and the standards  
12 council for the opportunity to discuss the ballot  
13 results for TIA number 1537. I have a prepared  
14 statement that I will read.

15 AHAM is a trade association representing  
16 manufacturers of major portable and floor care home  
17 appliances and suppliers to the industry. I want to  
18 thank NFPA for having a hearing where we can talk  
19 through the issue rather than just having a written  
20 process. It is helpful to someone like AHAM who has  
21 not submitted a TIA request before, and we want to  
22 make sure our request is heard.

23 As noted on the agenda, AHAM is appealing to  
24 overturn the ballot results of TIA number 1537, but

1 that should be amended to note that our current  
2 request, based on our appeal relief request, did  
3 narrow the focus of the request to range outlets  
4 only.

5           Secondarily, AHAM has wanted to raise the  
6 question in this hearing about how misalignment in  
7 requirements is managed and the subsequent steps to  
8 bring them back into alignment.

9           To explain this, I will walk through some  
10 historical steps. In 2017, NEC added a clause that  
11 requires product listing. Clause 422.6 requires  
12 that the certification standard used for the listing  
13 state that it meets appropriately designated  
14 standards. For electric ranges, that certification  
15 standard is UL 858. And it does state it covers  
16 products to be installed in accordance with the NEC,  
17 or the National Electric Code. UL 858's latest  
18 edition is in alignment with NEC 2017.

19           The 2020 edition of the NEC included 240-volt  
20 GFCIs per clause 218.8A. This created a product  
21 requirement that is beyond the listing requirements  
22 in clause 422.6 of the NEC. UL 858 does not require  
23 a leakage current assessment for products above 125  
24 volts. The industry is now experiencing field

1 issues due to this misalignment.

2 Electric ranges are not the only products that  
3 got caught misaligned to this new 2020 requirement.  
4 Air conditioners and electric water heaters also  
5 have misalignment to the new requirements. In fact,  
6 AHAM's TIA is modeled after TIA 1529, which is for  
7 air conditioners, that fundamentally was asking for  
8 the same thing, an extension of the requirement  
9 effectivity date to 2023. TIA 1529 passed voting  
10 whereas AHAM's did not.

11 Upon review of the input we received from the  
12 ballots on our TIA, we have updated our request to  
13 narrow the scope to range receptacles only. We are  
14 aware that a death was the precipitating event of  
15 the NEC 2020 change for range circuits. However, as  
16 noted in our appeal, that incident was associated  
17 with a recalled product, and the reason it was  
18 recalled was because the models were produced  
19 without a ground screw which did not meet the UL 858  
20 certification requirement, and, thus, the NEC  
21 listing requirements. That means the product was  
22 not compliant to clause 422.6, and NEC had already  
23 addressed the issue from that product.

24 However, AHAM is not requesting to remove the

1 requirement which will provide duplicative  
2 protection going forward, but AHAM is asking for  
3 time for the range industry to address the  
4 misalignment in the requirements. There are  
5 approximately five million electric ranges produced  
6 each year, and all of them are certified to UL  
7 standard that currently does not require leakage  
8 current testing above 125 volts.

9 The industry needs time to update the UL  
10 standard, redesign the product, retest it, recertify  
11 it, and then get product into production. An  
12 extension to January 1st of 2023 is not a lot of  
13 time, but it was what the other TIA used that we  
14 modeled after.

15 Again, we are not sure why that TIA passed  
16 voting and ours did not, except that we unknowingly  
17 originally wrote ours a little too broad, and we are  
18 okay to narrow that scope to just range receptacles.

19 This now leads to the second question on the  
20 process. So what is the process to realign the  
21 requirements when one of the standards raises its  
22 requirements, whether that is a UL end product  
23 standard or the National Electric Code that raises  
24 the requirements?

1           The process is not clearly defined, but is at  
2           least iterative in nature where one standard raises  
3           the level and then the other one gets aligned to  
4           that. The NEC currently acknowledges this with  
5           clause 90.4 which allows AHJs to permit materials  
6           from the previous version of the standard. AHAM is  
7           highlighting that ranges and other products are  
8           certified and listed to end product requirements  
9           that have not been updated yet and do not meet --  
10          and did not meet the 2020 NEC effectivity date.

11          I'll be candid. This change caught the  
12          industry by surprise, and no action on alignment had  
13          started. When misalignment was uncovered through  
14          field events, not even the ULPDE responsible for the  
15          UL 858 range standard was aware that the UL 858  
16          standard needed to be updated.

17          So AHAM does not expect that the process issue  
18          be resolved today. We request that our amended  
19          TIS -- TIA request be approved to allow time for the  
20          realignment and that a task force be set up to  
21          review the steps that should be taken for  
22          communication and action when misalignment in  
23          requirements occurs. AHAM is an ANSI accredited  
24          standards development organization and we would



1 support NFPA in this review and refinement of  
2 processes across standards.

3 Thank you for your time and review of our  
4 request for an effectivity date extension.

5 MR. GOLINVEAUX: Okay. Thank you for those  
6 comments. And I'm going to open this up to  
7 questions from council. I got a lot of feedback  
8 there. Chad? Chad Beebe.

9 MR. BEEBE: Thank you. Chad Beebe, member of  
10 council.

11 Randy, you had mentioned that you had  
12 originally submitted this as a broad statement in  
13 the TIA, and I notice that the word "range" is  
14 highlighted. Was that something that was added  
15 afterwards and was that resubmitted as a TIA, or was  
16 that never submitted as a TIA?

17 MR. GOLINVEAUX: Randy, you are not -- you're  
18 still muted. Please introduce yourself. There you  
19 go.

20 MR. COOPER: Randy Cooper, AHAM.

21 That has not been submitted as a new TIA.  
22 Again, being new to the process, we -- a TIA  
23 submittal would not have made the review for this  
24 cycle, only an appeal would have, and so we have not

1 submitted that, but we did submit that in our appeal  
2 that we would be open to narrowing the scope to  
3 range receptacles.

4 MR. GOLINVEAUX: Okay. Jeff Foisel?

5 MR. FOISEL: Jeff Foisel, member of council.

6 Randy, you've mentioned that the existing code  
7 allows for AHJs to utilize the previous version of  
8 the code, so could you help explain that a little  
9 bit more? How does this fit in? If they're already  
10 still allowed to use the prior version, why do you  
11 need to make this change now?

12 MR. COOPER: This is Randy Cooper from AHAM.

13 The request is to establish that movement and  
14 effectivity dates. The code allows the AHJ but it  
15 does not necessarily mean that they will, and in  
16 some cases where this has been brought up in the  
17 field, the AHJ said, "It's in the standard. I'm  
18 going to follow the standard." And so they are not  
19 choosing to allow that permission, and so the  
20 request through the TIA really is to break through  
21 that and provide the needed time to get products in  
22 alignment.

23 MR. FOISEL: Thank you.

24 MR. GOLINVEAUX: Ken Bush.

1           MR. BUSH: Thank you, Mr. Chair. Kenneth Bush,  
2 member of council.

3           Could you answer a question for me and to  
4 clarify what official action has been taken other  
5 than the appeal to clarify this or to submit a  
6 substitute TIA to address the issue?

7           MR. COOPER: Within NFPA -- I'm sorry, this is  
8 Randy Cooper from AHAM.

9           No other actions with NFPA other than maybe  
10 having discussions with members of CMP2 to  
11 understand the history and that there have been  
12 actions on our side. We have written a draft  
13 standard for the update to UL 858 to add the new  
14 requirements. Our members are going through and  
15 testing products and trying to understand any  
16 unintended consequences or lack of clarity that we  
17 have in that, and we'll be voting on that within  
18 AHAM and then we'll be submitting it to the ULSTP,  
19 all I can say is hopefully before the end of the  
20 year. What we are trying to do is get this worked  
21 through the UL process by January 2022 with a very  
22 quick effectivity date so that the effectivity date  
23 of UL 858 would be before the January 1st, 2023  
24 date.

1 MR. GOLINVEAUX: Okay. Thank you. Mr. Quiter?

2 MR. QUITER: Jim Quiter, member of council.

3 I think I know the answer to this but it's odd  
4 wording. We're talking about range receptacles  
5 rated 30 to 50 amperes. Are there no ranges that  
6 have receptacles less than 30 amperes? I could see  
7 why there would be a maximum. I don't understand  
8 why there's a minimum.

9 MR. COOPER: This is Randy Cooper from AHAM.

10 The way that it is written is to identify the  
11 240-volt receptacles. So a range that is operating  
12 at 240 volts is using that 30 to 50 amps. Below  
13 that, a 15-amp service is a 125-volt product and is  
14 already meeting leakage current requirements. And  
15 so this was input that we received from CMP members,  
16 or CMP2 members, in how to word the TIA. So, again,  
17 we thought we were just isolating out the 240-volt  
18 receptacles for ranges with that rated 30 to 50  
19 amperes, but, again, the inclusion of adding the  
20 term "range receptacle" is what we think we need to  
21 do to perfectly clarify that.

22 MR. GOLINVEAUX: James Golinveaux, member of  
23 council, chair of council.

24 Question for you, Mr. Cooper. The addition of

1 range, is this going to be submitted? Have you  
2 already submitted for a TIA including the range, or  
3 is it just to this appeal to this council to add the  
4 term "range" to this TIA?

5 MR. COOPER: This is Randy Cooper from AHAM.

6 We have not submitted that. And our  
7 understanding, talking mostly through email, so we  
8 did not talk verbally with NFPA staff, was the next  
9 step in the process where we could have the  
10 opportunity to get this impacted -- you know, we  
11 would like to get the TIA moving -- was to go  
12 through the appeal process.

13 MR. GOLINVEAUX: Okay. And James Golinveaux,  
14 chair of council.

15 Just a follow-up question to that. In your  
16 opinion, from the negative votes that had been  
17 received on the initial submittal, do you feel that  
18 the addition of "range" to narrow it down would  
19 change the committee's opinion from the comments  
20 that you've seen?

21 MR. COOPER: This is Randy Cooper from AHAM.

22 Yes. We look at this, and there are at least  
23 seven "no" votes, and five of those have comments  
24 related to -- or maybe wrote it too broad, related

1 issues, could get into other things, could be  
2 restricted to ranges. So we think we've addressed  
3 five of the seven "nos" with just that one change.  
4 The other one, the other "no" was punitive in our  
5 view where it just says, "You guys had enough time,  
6 you should have done it. We don't think you should  
7 be allowed the time." And then the other one was  
8 really a clarity on 2010.A -- B versus A, so there's  
9 kind of a clause difference there.

10 So, again, we feel we've addressed that. Being  
11 new to the process, we understand our most effective  
12 method right now was to go through the appeals, but  
13 if we need to rewrite that TIA and submit it  
14 immediately, we will do that.

15 MR. GOLINVEAUX: Thank you for the response.  
16 I'm not seeing any other questions. Are there any  
17 other further questions from council for Mr. Cooper?

18 All right. Not seeing any, Mr. Cooper, you  
19 have five minutes to conclude and summarize your  
20 appeal for us.

21 MR. COOPER: Okay. Thank you. This is Randy  
22 Cooper from AHAM.

23 This request is on TIA 1537, and we're asking  
24 to overturn the ballot results. We feel that the

1 ballot results are not reflective of where our  
2 current request would be. New to the process, not  
3 exactly sure how to execute that. We've come to  
4 this standards council for the overturning of the  
5 vote, especially with updating our request to focus  
6 on range receptacles. This is what is causing the  
7 industry issues, a significant number of issues, and  
8 they continue to grow every week as more and more  
9 homes are wired to the latest version of that. And,  
10 again, ranges have not been able to turn around and  
11 make those changes without updating the  
12 certification standard and then working through the  
13 test method for that.

14 So we are not the only appliance that is  
15 struggling with this. It's the -- ranges are the  
16 only appliance under AHAM, so that's why I'm not  
17 specifically talking through the other products, but  
18 we are aware that there was another TIA that we've  
19 tried to model off of that did pass voting. I know  
20 that it still hasn't completed its TIA process, but  
21 it looks like it would be moving towards that.  
22 We're trying to just do the exact same thing and get  
23 that extension to allow us the time to make the  
24 changes to, again, update our standard, which we do

1 have in process. We're aiming to have that  
2 published and effective in 2022 in advance of the  
3 effectivity date we're asking for, so ranges would  
4 be fully being produced prior to that date.

5 And I believe that is all that I have at this  
6 time. Thank you.

7 MR. GOLINVEAUX: Okay. Thank you, Mr. Cooper.

8 As we conclude the hearing, let me inform as to  
9 what happens next. The council will deliberate and  
10 reach its decision in executive session. Once a  
11 decision is made, that decision, including the  
12 background and any other information council  
13 believes relevant, will be prepared by NFPA staff  
14 and published by the secretary of the standards  
15 council on the standards council web page and in  
16 accordance with the regulations governing the  
17 development of NFPA standards.

18 Additionally, the decision will be sent to the  
19 appellants and the chair of the responsible  
20 committees directly. The official opinion and  
21 decision of the council is that as published by the  
22 secretary, and no other communication shall be  
23 considered the council's decision or position. Any  
24 questions regarding the decision should be addressed



1 with the secretary.

2 On behalf of the NFPA standards council, I'd  
3 like to thank all of those who participated in this  
4 appeal hearing. Your involvement, as well as all  
5 stakeholders, is important to the NFPA standards  
6 development process. This hearing is now ended.

7 If this concludes the business for which you  
8 have joined us today, you are welcome to leave the  
9 meeting at this time or remain on for additional  
10 hearings. Thank you.

11 HEARING ON 20-12-18-d

12 . . .MR. GOLINVEAUX: I'm going to move straight  
13 into the next appeal, and that will be 20-12-18-d,  
14 as in David. This is an appeal on NFPA 99 TIA 1521.  
15 And not seeing any comments here, I'm going to move  
16 straight into this one.

17 Good morning. My name is James Golinveaux.  
18 It  
19 is my distinct pleasure to serve as chair of the  
20 NFPA standards council and welcome you. I am going  
21 to call this hearing to order.

22 In a moment, I will have everyone introduce  
23 themselves by stating their name and affiliation,  
24 but before we do that, I want to remind everyone  
that we have a stenographer online with us today who

1 is transcribing these hearings. So from this  
2 standpoint, it is important that each of you, when  
3 you make your remarks, state your name and  
4 affiliation so the stenographer may accurately  
5 capture your information for the record.

6 In addition, for those who will be speaking, I  
7 ask that you forward your name as you wish for it to  
8 appear in the record, as well as your affiliation to  
9 Mary Maynard, if you have not done so already, so  
10 that we can spell your name correctly in the record.  
11 Her direct email is M as in Michael, M as in  
12 Michael, A-Y-N-A-R-D @nfpa.org.

13 Other than the stenographer, no other recording  
14 is allowed. This includes no recording through  
15 Teams and no recording on any other devices. For  
16 those who are guests for these hearings, please turn  
17 off your video. Doing so will preserve the  
18 bandwidth for those actively participating in the  
19 hearings and minimize delay issues. Participation  
20 in the hearing is limited to those individuals who  
21 have previously requested an opportunity to be  
22 heard.

23 Also, a couple of notes regarding Teams  
24 platform. Please do not utilize the chat feature as

1 any conversations, statements, or questions posted  
2 are not part of the hearing record and will not be  
3 considered by council during deliberations.

4 Additionally, although the raise hand feature is  
5 active, as chair, I will only be recognizing those  
6 previously identified as participants to each  
7 respective hearing.

8 Appeal hearings are scheduled for today,  
9 December 2nd, 2020, and the plan is to move from one  
10 hearing to the next with breaks if necessary.

11 We'll start with the introduction of council  
12 members themselves. My name is James Golinveaux. I  
13 am the chair of the standards council.

14 MR. BEEBE: I'm Chad Beebe, member of council.  
15 And, for the record, I'm recusing myself on this  
16 agenda item. I'll not participate as a member of  
17 the standards council in the hearing, deliberations,  
18 or voting in this matter.

19 MR. BUSH: Kenneth Bush, member of council.

20 MR. CROWLEY: Michael Crowley, member of  
21 council. For the record, I'm recusing myself on  
22 this agenda item. I will not participate as a  
23 member of standards council in the hearing,  
24 deliberation, or voting on this matter.

1 MR. FOISEL: Jeffrey Foisel, member of council.

2 MS. GLEASON: Patricia Gleason, member of  
3 council.

4 MR. JOHNSTON: Mike Johnston, member of  
5 council.

6 MR. KEITH: Gary Keith, member of council.

7 MR. KOVACIK: John Kovacik, member of council.

8 MR. POOLE: Jack Poole, member of council.

9 MR. QUITER: James Quiter, member of council.

10 MR. REISWIG: Roger Reiswig, member of council.

11 I would like to note for the record that I am a  
12 member of correlating committee on NFPA 99  
13 healthcare facilities code. As a correlating  
14 committee member, I participated in consideration  
15 and voting on issues that appear to be related to  
16 this appeal. I have, therefore, reviewed my  
17 obligations under the guide for conduct of  
18 participants in the NFPA process, particularly  
19 section 3.5(D) of the guide to consider whether  
20 there is any reason for me to recuse myself from  
21 consideration of this appeal. I have concluded that  
22 I do not have any views that are or would appear to  
23 be fixed concerned this issue, and I am fully able  
24 to give open and fair consideration to this appeal.

1           For the record, therefore, I have considered  
2           the matter and believe that I can fully, fairly, and  
3           impartially fulfill my role as a council member on  
4           this appeal.

5           MR. RICHARDS: Kenneth Richards, member of  
6           council.

7           MS. BELLIS: Dawn Michele Bellis, NFPA staff.

8           MS. GALLAGHER: Suzanne Gallagher, NFPA staff.

9           MR. DUBAY: Christian Dubay, NFPA staff.

10          MR. CHASE: Barry Chase, NFPA staff.

11          MS. MORENO: Laura Moreno, NFPA staff.

12          MS. VECCHIARELLI: Tracy Vecchiarelli, NFPA  
13          staff.

14          MR. CARR: Kevin Carr, NFPA staff.

15          MR. GANOE: Stephen Ganoe, NFPA staff.

16          MR. HARRINGTON: Gregory Harrington, NFPA  
17          staff.

18          MS. FLEMMING: Delisa Flemming, NFPA staff.

19          MS. MAYNARD: Mary Maynard, NFPA staff.

20          MR. SARGENT: Jeff Sargent, NFPA staff.

21          MR. GOLINVEAUX: Okay. And it appears that I  
22          have a few guests that have joined us. If you have  
23          joined us and you have not previously identified  
24          yourself, would you please hit the raise hand

1 feature so that I can recognize you and get you on  
2 the record? I'm not seeing any raised hands here.

3 So if you -- Suzanne, just a question for you.  
4 Was there a guest that has joined us that we have  
5 not identified?

6 MS. GALLAGHER: I'm seeing Sharon Saalfield.

7 MS. BELLIS: She's our court reporter.

8 MS. GALLAGHER: Sorry. I'm seeing Tom Boriack.

9 MR. GOLINVEAUX: Tom, can you unmute your  
10 microphone and introduce yourself?

11 MS. GALLAGHER: Do we have to do that?

12 MR. GOLINVEAUX: I don't know if we have to  
13 unmute him.

14 MS. BELLIS: I don't know where he just went.  
15 He just disappeared.

16 MR. GOLINVEAUX: He went up to the top of my  
17 screen.

18 MS. MAYNARD: I just invited him in as a guest.

19 MS. BELLIS: He's there. Mary, can you unmute  
20 Mr. Boriack?

21 MS. MAYNARD: I thought I did. I'll try again.

22 MR. BORIACK: Sorry about that.

23 MR. GOLINVEAUX: There you go, Tom. I can hear  
24 you now. Tom, can you introduce yourself, please?

1 MR. BORIACK: Tom Boriack with Cla-Val.

2 MR. GOLINVEAUX: Okay.

3 MS. BELLIS: And then, James, I also see a  
4 phone number (978) 270-2381 that I don't think has  
5 identified themselves previously.

6 MS. MAYNARD: That is the court reporter  
7 calling in on her phone.

8 MS. BELLIS: Oh, thank you, Mary. Sorry.

9 MR. GOLINVEAUX: And for those who are  
10 interested, Sharon Saalfield is --

11 MS. BELLIS: Saalfield.

12 MR. GOLINVEAUX: -- Saalfield is our court  
13 reporter, so thank you very much for what you do.

14 Okay. So with those introductions done, from a  
15 process standpoint, the general approach we will  
16 take today is allow 10 minutes for each side to make  
17 opening remarks and then we'll open the floor to  
18 questions from council members. Please wait for me  
19 to recognize you before speaking and ensure that all  
20 comments and questions are heard for accurate  
21 recording.

22 Once all questions are addressed to the  
23 satisfaction of the council, we'll move to closing  
24 remarks. Five minutes have been allocated for

1 closing remarks for each side. Following closing  
2 remarks, the hearing will conclude.

3 As a reminder, in accordance with the  
4 regulations governing the development of NFPA  
5 standards section 3.3.3.4, meetings shall not be  
6 recorded verbatim by any means other than authorized  
7 by the standards council secretary. For the purpose  
8 of the hearing, the secretary has authorized the  
9 recording by the stenographer, but any other  
10 recording of this hearing is prohibited. Does  
11 anyone have any questions at this point?

12 I'm not seeing any, so I will move straight  
13 into the hearing. This hearing is related to the  
14 agenda item 20-12-18-d, as in David, to overturn the  
15 ballot results and issue TIA 1521 of the technical  
16 committee on piping systems of NFPA 99. To speak  
17 here today for the NFPA 99, I have Rob Early.

18 Rob, are you there?

19 MR. EARLY: Good morning. Yes, I am,  
20 Mr. Chair. Rob Early, Compressed Gas Association.

21 MR. GOLINVEAUX: Okay, Rob. I'm going to start  
22 your time here, when I give you the notice, of your  
23 10 minutes to present your appeal to the council.  
24 So please begin.



1           MR. EARLY: Good morning, everyone. Rob Early,  
2 Compressed Gas Association.

3           As with the others, I'd like to thank the  
4 members of council and staff who have taken time out  
5 today. I believe I have a relatively uncomplicated  
6 matter. If it gets complicated, it's probably  
7 because I have made it complicated, so I will do my  
8 best not to drag this into the weeds, so I will try  
9 to keep an eye out for that.

10           Speaking today, I would like to request the  
11 overturn of the ballot for TIA 1521 which is dealing  
12 with cryogenic fluid central supply systems at  
13 health care facilities.

14           I'll give a little background on this. I think  
15 we still have time for that. This goes back to  
16 around 2015 when the NFPA 55 industrial medical  
17 gases technical committee and the NFPA 99 piping  
18 systems technical committee recognized that there's  
19 information on cryogenic fluid central supply  
20 systems found scattered throughout NFPA 55 and NFPA  
21 99, chapter 5, so that creates a challenge for users  
22 defined in one spot. So we formed a task group  
23 between 55 and 99 at that time to look at both  
24 standards and pull it all together into one section

1 which was going to become chapter 17 of NFPA 55.

2 This task group -- I was actually leading it --  
3 consists of members of both the -- both committees.  
4 We did quite a bit of good work on that. It took  
5 several cocycles to do it properly. And so the end  
6 result we had was to create a new chapter 17 which  
7 was published in the 2020 edition of NFPA 55 dealing  
8 with cryogenic fluid central supply systems.

9 For the 2021 edition of NFPA 99, the plan was  
10 to go ahead and to extract chapter 17 into a section  
11 of chapter five. And this was done, and I'll --  
12 this year during the process for 99. However, what  
13 the piping systems technical committee did was, in  
14 extracting, they took one section which had to deal  
15 with the amount of space around vaporizers, tanks,  
16 and other equipment, and have it go from having  
17 clearance on all four sides to have clearance only  
18 on three sides, with the very valid concern, of  
19 course, is that hospitals typically tend to be tight  
20 on real estate, so there's a reason to maybe only  
21 have it on three sides.

22 However, a couple of issues that creates a  
23 problem. One is there is a technical issue. CJ has  
24 actually submitted, worked on committee input on

1 NFPA 55 for the new edition to capture learnings  
2 from our member companies in supplying oxygen and  
3 medical gases to hospitals during the COVID-19  
4 crisis. And one of the big issues there, of course,  
5 is that they're using a lot -- hospitals are using a  
6 lot more oxygen, the flow rates going up, the  
7 vaporizers are getting stressed, so space is  
8 really -- clear space to run a vaporizer is  
9 something we really need to have to not run out of  
10 oxygen, not have the temperature drop, and just be  
11 able to keep up with these unprecedented demands for  
12 oxygen for patients. So that's a technical issue.

13 The work process issue is the 99 piping  
14 committee did -- which they had the right to do, is  
15 they extracted all of the chapter 17 from 55, but  
16 they took one section dealing with the space and  
17 changed it and removed the extract tag, and so it  
18 required spacing only on three sides, not on four  
19 sides. And the issue from that from a work process  
20 viewpoint, we feel, is that now you have conflicting  
21 standards. And both NFPA 55, chapter 17, and NFPA  
22 99, chapter five, have the same audience, so we  
23 actually had the same audience looking at two  
24 standards and realized there's a conflict between

1           them.

2           It is not as though 55's general requirements  
3           were taken over, moved over, extracted, and  
4           potentially changed because that makes sense  
5           sometimes. But, in this case, it's the same  
6           audience for both NFPA 55, chapter 17, and NFPA 99,  
7           chapter five. So we're asking that the council  
8           consider overturning this ballot and to basically  
9           have the two documents align. And the mechanism to  
10          do that would be with the 2021 edition of NFPA 99  
11          coming out with the nonextracted language, to have  
12          the TIA come out in parallel with it so that the  
13          general public will have consistent information from  
14          both documents. And so that's what we're  
15          requesting.

16          I've looked at the negative ballot comments,  
17          and they do make some very valid points, but I still  
18          feel it will be good to have those two documents  
19          align. For information, which you probably already  
20          read, is the technical merit was passed on the  
21          piping systems committee. The emergency nature was  
22          passed as well. The technical content was passed to  
23          the correlating committee, but the emergency nature  
24          failed at the correlating committee. So this is

1 what we're asking.

2 That's it. Just a fairly -- like I said,  
3 fairly uncomplicated matter, but also I'll be clear  
4 to answer any questions on this.

5 MR. GOLINVEAUX: Thank you, Mr. Early. Thank  
6 you very much. I will open this up to questions  
7 from council. Mr. Quiter?

8 MR. QUITER: Yes. Jim Quiter, member of  
9 council.

10 There is discussion in some of the negatives  
11 about this had been vetted at the technical  
12 committee, and that they had specifically decided  
13 that the four sides was not needed. Were you a part  
14 of that discussion, and do you know why the  
15 committee went that direction, why they changed?

16 MR. EARLY: Rob Early, Compressed Gas  
17 Association. Thank you, Mr. Quiter.

18 No, I was not part of that discussion. We had  
19 CJ representatives on the technical committee and  
20 they reported back on this, but I was not there  
21 present. And I agree the committee does have the  
22 right to make that change. We're just asking that  
23 they follow the process and make the changes in 55  
24 so they would be consistent. Other than that,

1 that's all I can answer on it.

2 MR. GOLINVEAUX: Okay. Thank you. Are there  
3 any further questions from council? James  
4 Golinveaux, chair of council.

5 A question for you, Mr. Early. This seems to  
6 be -- you know, in your opening statement, it was  
7 about space and it was about putting these in in the  
8 COVID environment, and more of these tanks are going  
9 in. And this seems to be more flexible with three  
10 sides, to me, than all sides. With the -- by  
11 removing the three sides, it seems to be more  
12 restrictive.

13 And I just want to make sure that I understood  
14 your opening statement. The committee is allowing  
15 what I thought with three sides was more flexible.  
16 By striking three sides, it would go to more  
17 restrictive; is that correct?

18 MR. EARLY: Rob Early, Compressed Gas  
19 Association.

20 And, yes, you are correct. We're asking that  
21 it be more restrictive, that it have the spaces on  
22 all four sides as opposed to only three. So I  
23 apologize for not being clear on that earlier.

24 MR. GOLINVEAUX: No, no. You're perfectly

1 clear. I'm sorry, James Golinveaux, chair of  
2 council.

3 You're perfectly clear on that. Mr. Quitter?

4 MR. QUITTER: Jim Quitter, member of council.  
5 One more question. Is there a hazard with only  
6 three sides, or is it just a consistency issue?

7 MR. EARLY: Rob Early, Compressed Gas  
8 Association.

9 And, thank you, Mr. Quitter. This concern we  
10 have is that when -- because we've seen this. A  
11 number of companies have reported back, and CJ has  
12 actually created a safety alert to member companies  
13 by dealing with this. We've seen particularly with  
14 hospitals with ambient vaporizers with drawing a lot  
15 more flow, the ice buildup tends to grow greater and  
16 so when there's not the space, there's actually  
17 occasions where the ice has grown and migrated over  
18 to the wall, and then it starts just creating a  
19 space issue. And it cuts down on the efficiency of  
20 the vaporizer and makes for a challenge to deliver  
21 the high oxygen flows.

22 And, granted, these are unprecedented flow  
23 rates, but it is what it is. So that's the concern  
24 we have, is that it makes it more difficult to get

1 enough vaporization of the liquid and convert the  
2 liquid into gas oxygen for the patients. Did I  
3 clarify that, or not?

4 MR. QUITER: Yeah, just a follow-up on that.  
5 Jim Quiter again, member of council.

6 So it is more a concern rather than a hazard  
7 that has been shown?

8 MR. EARLY: Rob Early, Compressed Gas  
9 Association.

10 Probably. I mean, I don't have -- we've not  
11 seen any documented incidents where we've shut a  
12 hospital down, where any members have shut hospitals  
13 down because of this, so I would concede that it's a  
14 concern. It's not -- we've not seen a direct hazard  
15 take place yet. So thank you. Good point.

16 MR. GOLINVEAUX: Okay. Ken Bush?

17 MR. BUSH: Thank you, Mr. Chair. Kenneth Bush,  
18 member of council.

19 Could you clarify for me that what I'm reading  
20 is correct? It looks like the wording proposed by  
21 the TIA will become extracted text from NFPA 55  
22 where a current wording in NFPA 99 does not?

23 MR. EARLY: Rob Early, Compressed Gas  
24 Association.



1           Yes, you're correct. The TIA, if passed, would  
2 go back to extracting language from chapter 17 of  
3 NFPA 55 which would remove the three sides and have  
4 the space required on all four sides.

5           MR. GOLINVEAUX: Okay. Jeff Foisel.

6           MR. FOISEL: Jeff Foisel, member of council.

7           Rob, when you mentioned that the -- for the  
8 extracted text that should go back to the NFPA 55,  
9 to make the changes there and the one document side  
10 of things. Has anything been submitted in that  
11 direction yet?

12          MR. EARLY: Rob Early, CJ.

13          Yes, there's been -- there's actually a  
14 committee input to NFPA 55 to capture all the  
15 learnings from COVID-19, which the language right  
16 now will be kept the same as this, but also consider  
17 any other changes. So there's actually work ongoing  
18 now to see what else needs to be changed in  
19 cryogenic fluid central supply requirements based on  
20 COVID-19 learnings. Did I explain it --

21          MR. FOISEL: So the particular changes here are  
22 part of the COVID submissions for updating 55?

23          MR. EARLY: Rob Early, CJ.

24          No, not quite. I mean, basically, this TIA is

1 going to the language which is currently published  
2 in the 2020 edition of NFPA 55. The TIA would just  
3 keep the two pubs, 99 and 55, consistent, with the  
4 thought that any changes that come out in 2023 in  
5 NFPA 55 based on COVID would be extracted over to  
6 the 2024, 99.

7 MR. FOISEL: Okay. Thank you.

8 MR. GOLINVEAUX: Okay. Are there any further  
9 questions from council?

10 Not seeing any -- let's see, where am I?  
11 Mr. Early, you have five minutes to conclude your --  
12 or summarize your appeal to the council. Please  
13 begin.

14 MR. EARLY: Rob Early, Compressed Gas  
15 Association.

16 Thank you, Mr. Chair. And, as I said, this is  
17 a fairly uncomplicated matter. We're essentially  
18 asking that the council consider overturning the  
19 ballot released and issue the TIA so that NFPA 55  
20 and NFPA 99 are consistent with what's currently  
21 written in 55 and that -- continue to follow the  
22 process.

23 I should point out one matter I think I might  
24 have written in my TIA proposal or TIA note, is that

1 at this point it's really -- right now the 55 and 99  
2 committees agree this material would be primary  
3 within NFPA 55. Having said that, if the NFPA  
4 piping committee would like to return that premise  
5 back to 99 and keep it all in chapter five, I'm fine  
6 with that. It really doesn't matter as long as it's  
7 in one place and consistent so there's no  
8 territorialness here at all. If 99 would like to  
9 take that on, that's fine. If 55 should keep it,  
10 that's fine, too. So this is not a matter of turf,  
11 if you will. It's just being consistent.

12 So that's all I've got. I thank everybody for  
13 taking time on this, and for the questions, and  
14 hopefully, I've answered them all for you.

15 MR. GOLINVEAUX: Thank you, Mr. Early. As we  
16 conclude the hearing, let me inform as to what  
17 happens next. The council will deliberate and reach  
18 its decision in executive session. Our decision is  
19 made -- once the decision is made, that decision,  
20 including background and any other information  
21 council believes relevant, will be prepared by NFPA  
22 staff and published by the secretary of the  
23 standards council on the standards council web page  
24 and in accordance with the regulations governing the

1 development of NFPA standards. Additionally, the  
2 decision will be sent to the appellants and the  
3 chair of the responsible committees directly.

4 The official opinion and decision of counsel is  
5 that as published by the secretary, and no other  
6 communication shall be considered the council's  
7 decision or position. Any questions regarding the  
8 decision should be addressed with the secretary.

9 On behalf of the NFPA standards council, I'd  
10 like to thank all those who participated in this  
11 appeal hearing. Your involvement, as well as  
12 stakeholders, is important to the NFPA standards  
13 development process. The hearing is now ended.

14 If this concludes the business for which you  
15 have joined us today, you are welcome to leave the  
16 meeting at this time or remain on for additional  
17 hearings.

18 Dawn and Suzanne and Chris, do we just want to  
19 run through the last one, or do we need a  
20 five-minute bio break for anybody? I'm looking for  
21 an opinion.

22 MS. BELLIS: James, we're about an hour and a  
23 half in, so anticipating that this next hearing  
24 probably will be a little more lengthy than the

1 first couple have been...

2 MR. GOLINVEAUX: I'm thinking a quick 10-minute  
3 bio break, coffee break for everyone would be in  
4 order, so I'm going to call that. I'm going to  
5 start at 12:05.

6 MS. BELLIS: I would suggest that rather than  
7 everyone logging off and logging back in, you just  
8 leave your cameras turned off and your mute off  
9 until we rejoin.

10 MR. GOLINVEAUX: Okay. We'll rejoin at 12:05,  
11 East Coast time.

12 (Recess taken.)

13 HEARING ON 20-12-21-d

14 MR. GOLINVEAUX: I've got 12:05. Dawn, are we  
15 good to go?

16 MS. BELLIS: I believe we are good to go.

17 MR. GOLINVEAUX: So the first question I have,  
18 are there any additional guests that have not been  
19 recognized or read themselves into the record that  
20 have joined us? If you could raise your hand or  
21 unmute your microphone?

22 I'm not seeing any. In fact, the number of  
23 attendees has gone down, so I'm going to assume that  
24 everyone on the call has read themselves into the

1 record.

2 Okay. So, being on the East Coast, good  
3 afternoon. My name is James Golinveaux, and it's my  
4 distinct pleasure to serve as the NFPA standards  
5 council and welcome you. I'm going to call this  
6 hearing to order.

7 In a moment, I will have everyone introduce  
8 themselves by stating their name and affiliation,  
9 but before we do that, I want to remind everyone  
10 that we have a stenographer online with us today  
11 who's transcribing these hearings, so from this  
12 standpoint, it is important that each of you, when  
13 you make your remark, state your name and  
14 affiliation so the stenographer may accurately  
15 capture the information for the record.

16 In addition, for those who will be speaking, I  
17 will ask that you forward your name and information  
18 for the record -- excuse me. I ask that you forward  
19 your name and -- as you wish it to appear in the  
20 record, as well as your affiliation, to Mary  
21 Maynard, if you have not done so already, so that we  
22 can capture and spell your name correctly in the  
23 record. Her direct email is M as in Michael, M as  
24 in Michael, A-Y-N-A-R-D @nfpa.org.

1           Other than the stenographer, no other recording  
2           is allowed. This includes no recording through  
3           Teams and no recording on any other devices. For  
4           those who are guests for these hearings, please turn  
5           off your video. Doing so will preserve the  
6           bandwidth for those actively participating in the  
7           hearings and minimize any delay issues.  
8           Participating in this hearing is limited to those  
9           individuals who have previously requested an  
10          opportunity to be heard.

11          Also, a couple of notes regarding Teams  
12          platform. Please do not utilize the chat feature as  
13          any conversation, statements or questions posted are  
14          not part of the hearing record and will not be  
15          considered by council during deliberations.  
16          Additionally, although the raise hand feature is  
17          active, as chair, I will only be recognizing those  
18          previously identified as participants to each  
19          respective hearing.

20          Appeal hearings are scheduled for today,  
21          December 2nd, 2020, and the plan is to move from one  
22          hearing to the next with breaks if necessary.

23          We'll start with the introduction of council  
24          members themselves. My name is James Golinveaux.

1 I'm the chair of council.

2 MR. BEEBE: I am Chad Beebe, member of council.

3 MR. BUSH: Kenneth Bush, member of council.

4 MR. CROWLEY: Michael Crowley, member of  
5 council.

6 MR. FOISEL: Jeffrey Foisel, member of council.

7 MS. GLEASON: Patricia Gleason, member of  
8 council.

9 MR. JOHNSTON: Mike Johnston, member of  
10 council.

11 MR. KEITH: Gary Keith, member of council.

12 MR. KOVACIK: John Kovacik, member of council.

13 MR. POOLE: Jack Poole, member of council.

14 MR. QUITER: James Quiter, member of council.

15 MR. REISWIG: Roger Reiswig, member of council.

16 MR. RICHARDS: Kenneth Richards, member of  
17 council.

18 MS. BELLIS: Dawn Michele Bellis, NFPA staff.

19 MS. GALLAGHER: Suzanne Gallagher, NFPA staff.

20 MR. DUBAY: Christian Dubay, NFPA staff.

21 MR. CHASE: Barry Chase, NFPA staff.

22 MS. MORENO: Laura Moreno, NFPA staff.

23 MS. VECCHIARELLI: Tracy Vecchiarelli, NFPA  
24 staff.



1 MR. CARR: Kevin Carr, NFPA staff.

2 MR. GANOE: Stephen Ganoe, NFPA staff.

3 MR. HARRINGTON: Gregory Harrington, NFPA  
4 staff.

5 MS. FLEMMING: Delisa Flemming, NFPA staff.

6 MS. MAYNARD: Mary Maynard, NFPA staff.

7 MR. SARGENT: Jeff Sargent, NFPA staff.

8 MR. GOLINVEAUX: Okay. And, during that, has  
9 anyone else joined us that has not been recognized?

10 Not seeing any, from a process standpoint, the  
11 general approach we will take today is to allow 10  
12 minutes for each side to make opening remarks and  
13 then we'll open the floor to questions from the  
14 council members. Please wait for me to recognize  
15 you before speaking to ensure that all comments and  
16 questions are heard for accurate recording. Once  
17 all questions are addressed to the satisfaction of  
18 council, we'll move to closing remarks. Five  
19 minutes have been allocated for closing remarks for  
20 each side. Following closing remarks, the hearing  
21 will conclude.

22 As a reminder, and in accordance with the  
23 regulations governing the development of NFPA  
24 standards section 3.3.3.4, meetings shall not be

1 recorded verbatim by any means other than as  
2 authorized by the standards council secretary. For  
3 the purposes of this hearing, the secretary has  
4 authorized recording by the stenographer, but any  
5 other recording of this hearing is prohibited. Does  
6 anyone have any questions at this point?

7 ·I'm not seeing any, so let's go ahead and  
8 begin.· This hearing is related to the agenda item  
9 20-12-21-d, as in David, regarding the text of TIA  
10 1539 to overturn the ballot results and issue TIA  
11 1539.

12 This is as the text was recommended by the  
13 technical committee on aircraft and fueling service  
14 of NFPA 407. I have notes on this that two  
15 people -- Steve Berry will be speaking on behalf of  
16 the National Air Transportation Association, and  
17 Jeremy Souza, I believe, will be reading into the  
18 record the committee statement.

19 Am I correct on that, Dawn or Suzanne? Those  
20 are the two speakers?

21 MS. BELLIS: Yes, that's correct, James.

22 MR. GOLINVEAUX: Okay. Okay. So, Steve, I'm  
23 going to -- just bear with me one second to get my  
24 timer started here. Steve, you will have 10 minutes

1 to address the council in support of your appeal.  
2 So please begin.

3 MR. BERRY: Good afternoon. My name is Steve  
4 Berry, manager of fuel quality and safety at the  
5 National Air Transportation Association, or NATA.

6 Several industry experts and I attended the  
7 most recent meeting of the technical committee on  
8 aircraft fuel servicing back in September. During  
9 the meeting, there was a motion to remove the  
10 retroactive language from the requirement for  
11 automatic shutdown systems at airport fuel loading  
12 racks. One of the most frustrating parts of that  
13 experience was hearing technical committee members  
14 discuss how the requirement impacted only large  
15 commercial airports. That was, and is, false. The  
16 requirement impacts small, medium, and large  
17 airports and businesses. However, our status as  
18 guests at the time precluded us the opportunity to  
19 correct the record.

20 So, at issue today is NATA's proposed TIA 1539.  
21 This TIA seeks to remove the retroactivity  
22 requirement for the installation of automatic  
23 shutoff systems at airport fuel load racks that are  
24 also compatible with the mobile refuelers that they

1 service.

2 The overfilling of mobile refuelers is a  
3 serious issue, one that poses risk to life,  
4 property, and the environment. And this is  
5 precisely why the NFPA 407 standard for aircraft  
6 fuel servicing has required mobile refuelers to be  
7 equipped with high-level shutoff systems for  
8 decades, systems that when operated properly are  
9 very effective and have a demonstrated history of  
10 reliability.

11 If these systems are failing at such a rate as  
12 to require the retrofitting of every mobile refueler  
13 and every load rack in the country with compatible  
14 automatic shutdown systems, there should be  
15 verifiable data to support such an expensive and  
16 onerous requirement.

17 NATA represents thousands of aviation  
18 businesses, all of whom acknowledge that while the  
19 overfilling of mobile refuelers does sometimes  
20 occur, the root cause is rarely because the  
21 high-level shutoff failed, but rather, because of  
22 intentional noncompliance on behalf of the operator,  
23 something that even this costly retrofit would not  
24 correct.

1           As to cost, I'd like to take a moment to  
2           address it, since it seems to not have been given  
3           the consideration that it deserves when  
4           retroactivity was included in the standard, even  
5           with the five-year time frame allotted in the 2017  
6           revision. The average cost for an airport that  
7           covers both jet fuel and av-gas to retrofit their  
8           existing equipment is approximately \$22,000. And  
9           that's assuming the airport only has one loading  
10          rack and one mobile refueler per grade of fuel.

11          As mentioned earlier, some have argued that the  
12          NFPA 407 only applies to large commercial airports  
13          who have already installed these compatible  
14          automatic shutdown systems, but the truth is, the  
15          407 is the national standard for aircraft fuel  
16          servicing and is widely adopted at most airports in  
17          the country. In fact, current draft FAA guidance on  
18          aircraft fuel storage handling, training, and  
19          delivery makes compliance with the most recent  
20          edition of the NFPA 407 mandatory for all airports  
21          that receive federal funding under the airport  
22          improvement and passenger facility charge programs.

23          So this issue goes well beyond just large  
24          commercial airports, and affects the more than 5,000

1 public use airports in the United States. Multiply  
2 that by \$22,000 per airport, and you're looking at  
3 over 100 million dollars to address a risk that has  
4 not been clearly established with verifiable data  
5 presented by the technical committee.

6 Effectively, this 100 million dollars decision  
7 has been based on little more than anecdotal  
8 evidence. Requiring retroactive compliance on  
9 existing equipment is not only extraordinarily  
10 expensive and does little to reduce actual risk, but  
11 ignores the voice of an entire industry. The NFPA  
12 has heard from more than 300 FBOs, airports, state  
13 aviation associations, aircraft operators, and fuel  
14 suppliers who submitted comments in regard to TIA  
15 1539. And of those 302 comments, exactly zero were  
16 in opposition. And while this issue has been open  
17 for public comment for many years, it does not  
18 change the reality of what is being presented here  
19 today.

20 I'd also like to point out that TIA 1539 did  
21 achieve a simple majority when balloted, and that  
22 the inclusion of retroactivity has been debated  
23 heavily amongst the 407 technical committee for  
24 years, I'd argue that this points to just how split

1 the committee is on the issue.

2 But much like JFK once said, our task is not to  
3 fix blame for the past, but to fix the course for  
4 the future. So on behalf of NATA, our membership,  
5 and the general aviation industry, I respectfully  
6 ask that the standards council approve TIA 1539, and  
7 I thank each of you for allowing me the opportunity  
8 to address you today. Thank you.

9 MR. GOLINVEAUX: Thank you, Mr. Berry. Jeremy  
10 Souza?

11 MR. SOUZA: Good afternoon. Thank you. My  
12 name is Jeremy Souza.

13 I am a fire protection and life safety  
14 consultant with Code Red Consultants in  
15 Southborough, Massachusetts. I am also a member and  
16 past chair of the aircraft fuel servicing technical  
17 committee. And while I have submitted a written  
18 statement to the council in opposition to this TIA,  
19 I will be speaking in this case for the technical  
20 committee on behalf of the chair, Carrie Skinner,  
21 who is unable to attend today's hearing.

22 This TIA is related to installation of  
23 automatic overfill prevention systems for aircraft  
24 fuel servicing tank vehicles. Beginning in the 2017

1           edition, NFPA 407 requires installation of overfill  
2           prevention systems at new and existing aircraft fuel  
3           servicing task vehicle loading racks which will shut  
4           down the loading rack when the pump -- sorry -- shut  
5           down the loading rack pump when the vehicle's  
6           storage tank is full. Prior systems did not shut  
7           down the pump, and they only closed the valve inside  
8           the loading -- the truck's tank that is being  
9           loaded. If that valve fails, the tank then is  
10          overloaded, discharging fuel from the vent system  
11          onto the ground.

12                 The technical committee first visited this item  
13          at the 2014 first draft meeting for NFPA 407, 2017  
14          edition. The first revision was created by the  
15          technical committee, not by a public input. The  
16          technical committee debated, at length, the need for  
17          retroactivity to existing installations. There was  
18          discussion at the time of setting thresholds based  
19          on fuel flowage rates, number of fill operations per  
20          a given time period, and other metrics to determine  
21          if an overfill prevention system was required. It  
22          was also identified at the time that overfill  
23          prevention systems were already required by NFPA 30  
24          for all vehicle loading racks.



1           The technical committee could not come to  
2           consensus on thresholds and opted, instead, to make  
3           the requirement fully retroactive to existing  
4           facilities as well as new installations. The  
5           technical committee recognized the financial  
6           implications of the decision and gave a five-year  
7           implementation timeline to allow airports to plan  
8           for installations and let the industry come up with  
9           various means and methods for compliance.

10           This item passed ballot first draft and  
11           received zero public comments for second draft. At  
12           the second draft meeting in 2015, the committee  
13           again discussed the item and its implementation,  
14           reaffirming the retroactivity methodology initially  
15           passed at first draft. The implementation deadline  
16           was set five years from the effective date of the  
17           2017 edition, which is June 2nd, 2021.

18           In the three-year public input period following  
19           publication of the 2017 edition, there was zero  
20           public inputs received on this topic. At the first  
21           draft meeting for the proposed 2022 edition which  
22           was held last year, 2019, a committee member moved  
23           to remove the retroactivity requirement from the --  
24           from the 2022 edition. This did not pass a

1 committee vote during the first draft meeting and  
2 was not included in the first draft report.

3 Additionally, a continuation meeting for the  
4 first draft meeting was held solely to update the  
5 compliance deadline. The committee voted at the  
6 continuation meeting to modify the wording from  
7 "five years from the effective date" to the fixed  
8 date of June 2nd, 2021. This first revision passed  
9 ballot and was included in the first draft report.  
10 No public comments were received on that change.

11 The retroactivity requirement was yet again  
12 brought up at the second draft meeting for the  
13 proposed 2022 edition, again from a committee  
14 member. This, again, did not pass vote at the  
15 second draft meeting and was not included as a  
16 second revision. Parallel to this -- to the second  
17 draft meeting, TIA 15 39 was in process and was  
18 discussed at the meeting, but not acted upon as the  
19 TIA had not yet fully been submitted.

20 The technical committee is split on this TIA.  
21 While a clear majority voted to accept the TIA, it  
22 did not receive the required 75 percent vote, with  
23 16 in agreement and nine disagreeing. While each  
24 member has their own individual reasons for casting

1 their vote the way that they did, the general  
2 consensus for those who agree seem to be related to  
3 the current financial situation caused by the  
4 pandemic and its resulting decrease in aviation  
5 traffic and near catastrophic impact on those who  
6 derive their income from the sales of aviation fuel.

7 The consensus amongst those who voted disagree  
8 is based on the lack of input from the aviation  
9 community in the past six years and the last-minute  
10 change that seems to be taking place now.

11 That concludes my statement. I thank the  
12 counsel for your time, and I will happily answer any  
13 questions that the council may have.

14 MR. GOLINVEAUX: Thank you very much. I am now  
15 open for any questions from council.

16 And to start this off, James Golinveaux, chair  
17 of council. A question for either appellant here.  
18 This came out in 2017. The TIA is coming out, you  
19 know, seven or eight months before the deadline  
20 date. Was there a reason that we waited so long to  
21 file this TIA, or was it just not known to this  
22 effective date? I guess that would be to you,  
23 Mr. Berry.

24 MR. BERRY: Sure. This is Steve Berry with

1 NATA.

2 I'm happy to address that, Mr. Chair. So one  
3 of the primary reasons that no public comments were  
4 submitted up until this point is, to be quite honest  
5 and quite frank, is that the public solicitation  
6 comment process is not well known or defined or  
7 publicized, rather, I should say, to the general  
8 aviation industry. Once we became aware of it and  
9 we brought it to our GA fuel handling subcommittee  
10 and promoted it to the industry, we received  
11 overwhelming support.

12 Another factor is, as I mentioned, the latest  
13 draft FAA guidance now requires the NFPA 407 to be  
14 mandatory at airports who accept federal funding.  
15 So, all of a sudden, airports and FBOs started  
16 hearing about this, and it became more of a concern.  
17 And that's what brings us here today, is the  
18 industry was honestly just not aware of it up until  
19 we brought it to their attention, and once they were  
20 aware of it, we received the overwhelming support  
21 that we did.

22 MR. GOLINVEAUX: Okay. Thank you. And James  
23 Golinveaux, chair of council.

24 A question for Mr. Souza. Mr. Souza, you said

1 in the 2022 first draft preparation that the  
2 language is going to the fixed date of June 21st,  
3 2021, and that's what we're going to issue. We're  
4 going to issue a compliance date of 2021 for a 2022  
5 document; is that correct?

6 MR. SOUZA: That is correct, sir. The June  
7 2nd, 2021 date was five years from the  
8 implementation date in the 2017 edition.

9 MR. GOLINVEAUX: Okay.

10 MR. SOUZA: So that being the end date for --  
11 under the 2017 edition, it essentially becomes a  
12 legacy date in future editions. There's a similar  
13 methodology in NFPA 58 for the requirement of,  
14 again, oddly enough, overfill protection devices for  
15 liquified petroleum gas cylinders, that the date  
16 still -- I believe still remains in NFPA 58 with a  
17 2001 or 2002 implementation date that's continued to  
18 be carried over.

19 MR. GOLINVEAUX: Thank you. Mr. Quiter?

20 MR. QUITER: Jim Quiter, member of council.

21 As I understand it, there's already an  
22 automatic valve shutoff, so this adds another safety  
23 feature, which is an automatic pump shutoff. Are  
24 there records or data about how often that valve

1 fails, how often there have been spills, and how  
2 often there have been incidents after those spills?

3 MR. BERRY: Steve Berry, NATA, here.

4 And that's just the point, Jim, is that there  
5 is no sufficient data, that this is occurring at  
6 such a frequent rate to justify a retroactive  
7 requirement to install these automatic shutdown  
8 systems on the pumps. Every instance that we're  
9 aware of within our industry is because of -- or I  
10 should say the majority of instances that we're  
11 aware of within our industry is because of  
12 intentional noncompliance where the operator would  
13 be filling a truck, intentionally bypassed the  
14 deadman switch, and essentially override the  
15 fail-safe components of the system that's designed  
16 and has been effective for years.

17 So that's why we're asking to remove the  
18 retroactivity requirement because we're essentially,  
19 you know, going to put in a system that's not going  
20 to reduce the risk any further than it already is  
21 primarily because even these automatic shutoff  
22 systems that are being proposed, they can also be  
23 bypassed. So if folks out there are going to be  
24 intentionally not compliant, then even this isn't

1 going to solve the problem.

2 So we're not arguing that this technology isn't  
3 somewhat better or adds another layer of protection  
4 than the existing technology. We're all about  
5 advancing the industry and getting safer as we move  
6 along. But to make it retroactive with the price  
7 tag that it has is what we're asking to be removed.  
8 Let's apply it to new equipment moving forward  
9 instead of going backwards when there isn't any good  
10 data to necessitate the need.

11 MR. SOUZA: And, Mr. Chair, Jeremy Souza from  
12 Code Red. Can I also respond to that?

13 MR. GOLINVEAUX: I was just going to ask that  
14 you do. Thanks.

15 MR. SOUZA: Thank you. The -- again  
16 representing -- Jeremy Souza representing the  
17 technical committee for aircraft fuel servicing.

18 This was debated back -- this concept of why  
19 the pump shutoff versus a vehicle shutoff was  
20 debated, not necessarily debated at length, because  
21 of the functionings of the existing overfill  
22 prevention systems, that they are built into the  
23 truck. When that system fails, it fails in the open  
24 position. So the valve, the loading valve on the

1 bottom of the fuel truck does not close when it's  
2 supposed to close when the truck is full. That  
3 valve does not close and the loading rack pump  
4 continues to operate. It continues to pump fuel  
5 into the truck, thus resulting in the overfill.

6 The systems that were brought up in 2017 and  
7 that are currently -- we're currently debating do  
8 detect when the truck is full and it shuts the pump  
9 off. I respectfully disagree with Mr. Berry that  
10 the systems can be bypassed. The failing of -- the  
11 modes of failure for these shutoff systems fail that  
12 the pump itself does not turn on, not that the pump  
13 remains on. If the system is not connected to the  
14 fuel truck, then the system will not allow the  
15 fueling pump to turn on.

16 As in regards to the numbers of spills, there  
17 are no solid data. There's no reporting mechanism.  
18 I did do some background research in 2017 attempting  
19 to use NFIRS data, National Fire Incident Reporting  
20 System, to verify airport fire department responses  
21 to fueling facilities for overfills. And that level  
22 of granularity of the data is just not available in  
23 the NFIRS reports. It's not something that's  
24 readily searchable.



1           We then defaulted to the members of the  
2           enforcement and the responder community who are  
3           represented by the aircraft fuel servicing technical  
4           committee and the other industry connections that  
5           that responder community has. My own personal  
6           experience, I was in charge of fire prevention at an  
7           air carrier airport in New England for 12 years. My  
8           own experience with the facilities that my fire  
9           department responded to, we were seeing about one  
10          spill every two to three months due to overfilling.  
11          And while all of them the operator claimed that he  
12          checked the system and was using it properly, we  
13          were never able to determine operator failure versus  
14          equipment failure at the point that we cannot  
15          determine the failure, then we need to engineer  
16          around that failure. And that was what this -- this  
17          section of NFPA 407 was designed to do.

18           MR. GOLINVEAUX: Okay. Jim, I assume you're  
19          okay with that. Move to Chad Beebe.

20           MR. BEEBE: Yeah, Chad Beebe, member of  
21          council.

22           This question is for Mr. Berry. You mentioned  
23          that you were at the committee meeting as a guest.  
24          Did you talk to the chair about addressing the

1 committee? And how did that conversation go?

2 MR. BERRY: I did. I did request to address  
3 the committee, and I was told that as a guest, I was  
4 prohibited from participating, and that we could  
5 listen only, which is why I opened my statement with  
6 that frustrating experience.

7 MR. BEEBE: Thank you. Chad Beebe again,  
8 member of council.

9 Additional question. You mentioned that there  
10 was a lot of impacts on the general aviation  
11 airports. What type of impacts are you thinking  
12 there? I think I've heard a couple times, like,  
13 \$20,000 for this equipment. Is this increasing  
14 hazards at local airports? Reducing hazards? Are  
15 we looking at potential closure of some of these  
16 airports? What type of impacts?

17 MR. BERRY: Steve Berry with NATA.

18 That's a great question, Mr. Beebe. So the  
19 financial impacts are huge. As I laid out, average  
20 cost of \$22,000. And that's only if they have one  
21 load rack and one fuel truck per fuel farm. Most  
22 airports have multiple load racks and multiple fuel  
23 farms.

24 Part of my written materials that were

1 submitted were several of the comments that were put  
2 forth by the public which outlined the costs that  
3 they're facing right now, which, you know, during  
4 COVID is even harder to swallow. There are going to  
5 be some businesses that will either be out of  
6 compliance with the National Fire Code or they will  
7 be put out of business if they have to pay for this  
8 retrofit. And that's who we're looking out for  
9 here.

10 MR. GOLINVEAUX: Okay. Moving on to Jack  
11 Poole.

12 MR. POOLE: Question for both. And this is  
13 Jack Poole with -- member of council.

14 What is the current testing requirements for  
15 the existing automatic shutoff feature for the  
16 component that is there today? Is there some type  
17 of testing requirements that has to be done? And  
18 the second part of that question, are those  
19 requirements, if they exist, truly being implemented  
20 like they should be?

21 MR. BERRY: Steve Berry with NATA.

22 Thank you, Mr. Poole. Yes, there's what is  
23 known as a precheck device on the high-level  
24 shutoffs of mobile refuelers. The way it's designed

1 is when the truck is connected to the bottom of the  
2 rack and flow is initiated, this precheck device  
3 is -- it's essentially a handle that gets pulled  
4 which confirms that fuel flow stops. What's  
5 happening when you activate that precheck, when  
6 you're flowing fuel, you have some sense lines that  
7 go to the top of the truck. Those sense lines  
8 connect to another sensor which allows the belly  
9 valve -- sends a signal to the belly valve to remain  
10 open. As the fuel level rises, it blocks that  
11 stream of fuel between the sensor. It sends a  
12 signal to close the belly valve.

13 So when you're performing that precheck  
14 function, you're essentially simulating the truck  
15 being full by cutting off that flow of fuel to the  
16 sensor, and that's what the precheck device is  
17 designed to do. And they work quite effectively.

18 MR. POOLE: Jeremy, do you have a response to  
19 that?

20 MR. SOUZA: Jeremy Souza, Code Red Consultants  
21 representing the aircraft fuel servicing technical  
22 committee.

23 I would agree with Mr. Berry's description of  
24 how that system operates and how the precheck is

1           meant to operate. The downfall of that system is  
2           that it requires the fueling operator to manually  
3           operate that valve to verify that the high-level  
4           sensor system is operational. The truck will fill  
5           whether the system is operational or not, which  
6           that's generally what we see, that the operator --  
7           during a spill event, the operator will claim that  
8           he checked -- utilized the precheck and that it  
9           worked fine, and then in the intervening time  
10          between when he started fueling and when the  
11          overfill happened, that that it mysteriously failed.

12                 That is a very consistent statement across all  
13          of the responders, the fire service folks who would  
14          respond to these incidents. The high-level shutoff  
15          systems that 407 is now calling for, as I said  
16          before, they verify the operation, and if the system  
17          does not go through its own internal check and  
18          successfully pass those checks, it will not turn the  
19          pump on and allow the truck to fill up.

20                 MR. POOLE: So, James, this is Jack Poole,  
21          member of council again. Steve, did you want to  
22          respond to that, or can we allow that, James? Looks  
23          like Mr. Berry had a response.

24                 MR. GOLINVEAUX: You can certainly ask a

1 follow-up.

2 MR. BERRY: Yes, I did want to respond. Steve  
3 Berry with NATA.

4 I did want to respond to that. Again, it comes  
5 back to the data. There's no data showing that  
6 there's overfills of the bottom loading valve  
7 failing at such a rate to justify a \$100 million  
8 expense to the industry. We're all about  
9 progression and moving forward, but let's do it as  
10 we build new fuel farms like almost most -- as far  
11 as I'm aware, the NFPA standards work. It's fairly  
12 rare for retroactivity to be applied, especially in  
13 a case like this.

14 We have systems that work. Their failures are  
15 due to intentional noncompliance, not system  
16 failure. And to Mr. Souza's point, you know, the  
17 way that the belly valve works, if he's concerned  
18 about it sticking open, the precheck is going to  
19 tell you whether or not the belly valve is  
20 functioning as designed. If you were to have these  
21 automatic shutoff systems out there, which, by the  
22 way, can be bypassed because they need to be able to  
23 be bypassed to recirculate, if you were to have  
24 those systems out there, then it might lend people

1 to become overreliant on the technology instead of  
2 physically testing the valve itself, which is what  
3 we're concerned about. That belly valve needs to  
4 close regardless of -- needs to close during the  
5 fueling operation, and that's what the precheck  
6 does.

7 We have an effective system in place. We have  
8 no data to support such a costly retrofit across an  
9 entire industry, and we respectfully ask that the  
10 retrofitting language be removed.

11 MR. GOLINVEAUX: Okay. And I'm going to remind  
12 the respondents. The question was pretty simple as  
13 to is the valve tested, so we're going to try to  
14 limit the responses, you know, to the question at  
15 hand. You'll have another five minutes to summarize  
16 and conclude your arguments, just in the essence of  
17 time.

18 So, Jack, I assume you're good there. Your  
19 hand's still up, but I'll take it as you're  
20 finished, and we'll go with Ken Bush, please.

21 MR. BUSH: Thank you, Mr. Chair. Kenneth Bush,  
22 member of council.

23 Question to either speaker. Can you give me an  
24 idea on the service life of the equipment that's

1 affected by this TIA?

2 MR. BERRY: Steve Berry with NFPA. I'm sorry,  
3 with NATA.

4 You know, trucks -- there's trucks out there  
5 that -- I mean, I would say the leased trucks get  
6 replaced -- you know what? I'm going to defer to  
7 Randy Harrison with Avfuel. He's our guest, would  
8 he be able to address the council on this one?

9 MR. HARRISON: Sure. Refuelers side, we have a  
10 leased weight of roughly --

11 MR. GOLINVEAUX: Randy, you need to identify  
12 yourself and your affiliation, please.

13 MR. HARRISON: Randy Harrison. I apologize.  
14 Randy Harrison, Avfuel Corporation, also member of  
15 the NATA general committee.

16 We have a leased fleet of over 800 -- I can  
17 speak for those -- around the country for all  
18 different-size airports from small airports to large  
19 airports. And as far as time frame, we've got  
20 trucks still in our fleet that are in the 1990  
21 range, to give you an idea, and then obviously all  
22 the way up to brand-new 2021s. Refuelers, on  
23 average, get about a 15-year life expectancy that we  
24 see. I've been doing it 30 years in this business



1 doing both.

2 When it comes to fuel storage facilities, fuel  
3 storage facilities cost to most airports replacement  
4 somewhere around 30 years of life expectancy of a  
5 fuel storage facility. So that's the tanks, the  
6 pumps. Obviously, they do maintenance and things,  
7 but that's typically a life expectancy of a storage  
8 facility at an airport.

9 MR. GOLINVEAUX: All right. Thank you. Moving  
10 on to Mike Crowley, please.

11 MR. CROWLEY: Mike Crowley, member of council.

12 This is a question for Mr. Souza. Hopefully,  
13 he may be able to answer this one as a member of the  
14 technical committee. Do you feel the balance on the  
15 technical committee addresses some of the unique  
16 concerns we're hearing about these small FBOs and  
17 small facility operations?

18 MR. SOUZA: Jeremy Souza, Code Red Consultants,  
19 representing the aircraft fuel servicing technical  
20 committee.

21 Mr. Crowley, I do feel that that community is  
22 represented. A number of the manufacturers on the  
23 committee and users of the committee focus more on  
24 the smaller airport fueling systems. We do have a

1 few of the manufacturers that are -- do  
2 installations primarily at large air carrier  
3 airports, but we do have several of those members.  
4 And those were the members who were the most vocal  
5 on this issue of implementation thresholds and how  
6 do we make it not apply to the very small airports  
7 who would be most -- who would be the harshest --  
8 receive the harshest impact of the retroactivity  
9 requirements. I do think, overall, the balance is  
10 pretty reliable and what I would expect to see.

11 MR. GOLINVEAUX: Okay. Mike, follow-up?

12 MR. CROWLEY: Yeah. Mike Crowley, member of  
13 council.

14 Steve, I'm not sure how familiar you are with  
15 the NFPA process. You had mentioned you weren't.  
16 But if you -- our rules say we can't have more than  
17 1/3 of any special interest group on any technical  
18 committee, do you feel you were well represented in  
19 our technical committee.

20 MR. BERRY: I do not. I don't think the  
21 technical committee takes into consideration the  
22 general aviation industry. I think most of the  
23 folks, like Mr. Souza and some of the enforcing  
24 authorities that are on that committee, represent

1 large commercial airports and the general and  
2 business aviation community often gets overlooked.  
3 We're not talking about big airports here. We're  
4 talking about that small airport down the street.  
5 Small businesses do not have the resources to comply  
6 with retroactivity, especially when -- I'll just  
7 leave it that at.

8 MR. GOLINVEAUX: Okay, I'm going to move on to  
9 Ken Bush.

10 MR. BUSH: Thank you, Mr. Chair. Kenneth Bush,  
11 member of council.

12 Another question for Mr. Souza. Do you have  
13 any comment on the ability of guests to participate  
14 at the meeting, particularly when it came to this  
15 issue at the last annual committee meeting?

16 MR. SOUZA: Jeremy Souza, Code Red Consultants,  
17 representing the aircraft fuel servicing technical  
18 committee.

19 Mr. Bush, I cannot speak solely for the chair.  
20 I don't know exactly what his thought process was at  
21 the time. There was discussion at the beginning of  
22 the meeting for the second draft meeting that with  
23 the contentiousness of this topic coming up and that  
24 it had been brought up -- was being brought up by --

1           how do I say this? It was expected and anticipated  
2           that a committee member would be bringing this up as  
3           a committee-generated second revision based on the  
4           first draft meeting that we were going to be  
5           discussing this topic. Regardless of who it was who  
6           brought the subject up, the subject was brought up  
7           and was vigorously debated by the committee.

8           The fear at the time was given that it was a  
9           Microsoft Teams meeting that -- and we were doing an  
10          entire second draft meeting solely remotely, that  
11          the discussion of the TIA that had not yet been  
12          fully vetted by NFPA staff would have resulted in a  
13          very lengthy and contentious meeting. But,  
14          generally, for a committee meeting, the input of  
15          guests is solicited and expected.

16          MR. GOLINVEAUX: Okay. Mr. Poole?

17          MR. POOLE: Thank you, Mr. Chair. Jack Poole,  
18          member of council.

19          I'd like to go back to one of your earlier  
20          questions and direct this question to Mr. Berry.  
21          Acknowledging that it kind of appears that the sole  
22          issue is financial, and we are well into the  
23          five-year period, I would like to know how many of  
24          your, I'll say, medium to smaller members have

1           complied with the requirement and have installed the  
2           required devices. What percentage do you think we  
3           have compliance versus not complied as of this point  
4           in time?

5           MR. BERRY: Steve Berry with NATA.

6           That's tough to put an exact number on. I'd  
7           say less than 10 percent. Randy or John, do you  
8           know if you guys have numbers, or want to chime in  
9           on this? I'd like to defer to you as well.

10          MR. HARRISON: Randy Harrison, Avfuel  
11          Corporation again.

12          We get calls every day but -- asking, you know,  
13          "Where's this at?" "Do I really have to comply?"  
14          Things like that kind of nature. I would say less  
15          than five percent in the GA community, if not less  
16          than that. The larger airports were already  
17          starting to comply or had complied already. Again,  
18          they're being looked at, or I should say they're  
19          reviewed by the local RF community or, you know, the  
20          fire departments at part 139 airports, so those have  
21          a larger number.

22          And I would say -- we just did a evaluation  
23          here amongst airports that we service with fuel  
24          supply, and -- how many airports? 167. 139

1 airports only have about 10 percent. So, right now,  
2 very small amount, even in the larger airports have  
3 made the compliance so far. Again, loss of  
4 communication to them, but very small number at this  
5 point.

6 MR. GOLINVEAUX: Okay. Thank you. I'm going  
7 to move to Mr. Quiter.

8 MR. QUITER: Jim Quiter, member of council.

9 Just a real quick question. If this was put  
10 into effect in 2017, how is five years from 2017,  
11 2021?

12 MR. SOUZA: Jeremy Souza, Code Red Consultants,  
13 representing the aircraft fuel servicing technical  
14 committee.

15 The effective date of the 2017 edition was June  
16 2nd, 2016. How the edition numbers are -- the  
17 edition dates, I'm really not sure of how that is  
18 done, but that was the number that was published, so  
19 that was the number that the committee had to go  
20 with.

21 MR. GOLINVEAUX: Okay. Jim, you're good with  
22 that?

23 MR. QUITER: It was just my math.

24 MR. GOLINVEAUX: Okay. I'm not seeing any

1 further questions. Do any member of council have  
2 any further questions?

3 Seeing none, I'm going to open it up for final  
4 comments. Mr. Berry, you'll go first; and,  
5 Mr. Souza, you will follow up. You both have five  
6 minutes. So, Mr. Berry, if you would begin your  
7 summary comments for me, please?

8 MR. BERRY: Thank you, Mr. Chair. Steve Berry  
9 with NATA.

10 In summary, I'd like to say the requirement for  
11 compatible automatic shutdown systems was made with  
12 a -- was made as a broad brush solution, and  
13 implemented without data to justify such an action.  
14 The retroactive nature of the requirement  
15 dramatically increases the cost of compliance  
16 without sound justification. The technical  
17 committee has demonstrated a clear misunderstanding  
18 of who is impacted by this requirement, and there is  
19 a lack of evidence demonstrating the need for  
20 compatible automatic shutdown systems across the  
21 entire industry.

22 However, TIA 1539 proposes only removing the  
23 retroactive component and, instead, applies it only  
24 to new equipment. Based on these considerations,

1 the majority support reflected in the final ballot  
2 results from the technical committee itself, and the  
3 overwhelming industry support, we ask that the  
4 standard council approve TIA 1539. Thank you.

5 MR. GOLINVEAUX: Thank you, Mr. Barry.

6 Mr. Souza? Five minutes, please.

7 MR. SOUZA: Jeremy Souza, Code Red Consultants,  
8 representing the aircraft fuel servicing technical  
9 committee.

10 The aircraft fuel servicing technical committee  
11 has been debating this particular topic since 2014.  
12 The topic -- this retroactivity requirement has  
13 prevailed through now two revision cycles of NFPA  
14 407. Through both revision cycles, there was zero  
15 public input, zero public comment that was received  
16 on any -- at any phase. Given that, the committee  
17 feels that the NFPA standards development process  
18 was followed and that the retroactivity requirements  
19 should remain in the standards, both 2017 and the  
20 proposed 2022 edition.

21 MR. GOLINVEAUX: Okay. Does that conclude?  
22 Mr. Souza, you've concluded?

23 MR. SOUZA: Yes, I have.

24 MR. GOLINVEAUX: Okay. Thank you. As we



1 conclude the hearing, let me inform as to what  
2 happens next. The council will deliberate and reach  
3 its decision in executive session.

4 Our decision is made -- once the decision is  
5 made, that decision, including background and any  
6 other information council believes relevant, will be  
7 prepared by NFPA staff and published by the  
8 secretary of the standards council on the standards  
9 council web page, and in accordance with the  
10 regulations governing the development of NFPA  
11 standards.

12 Additionally, the decision will be sent to the  
13 appellants -- the decision will be sent to the  
14 appellants and the chair of the responsible  
15 committees directly. The official opinion and  
16 decision of the council is that as published by the  
17 secretary, and no other communication shall be  
18 considered the council's decision or position. Any  
19 question regarding the decision should be addressed  
20 with the secretary.

21 On behalf of the NFPA standards council, I'd  
22 like to thank all of those who participated in this  
23 appeal hearing. Your involvement, as well as all  
24 stakeholders, is important to the NFPA standards

1 development process. This hearing is now ended.

2 If this concludes the business, which this  
3 includes all of the appeal hearings for today, we  
4 will go off the record. I want to thank everybody.

5 (Whereupon, the meeting was adjourned at 12:52  
6 p.m.)

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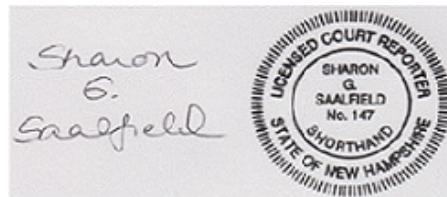
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