29 March 2013

To: Interested Parties

Subject:

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Dear Interested Parties:

At its meeting of March 6-7, 2013, the Standards Council issued a decision on the above-referenced matter. On March 14, 2013, NFPA issued the Council’s decision on the appeal in the form of a “Short” decision which briefly stated the outcome of the appeal and which indicated that a full Final decision on the appeal would be used in due course and sent to all interested parties as soon as it became available.

The Council’s Final decision is now available and is attached herewith.

Sincerely,

Amy Beasley Cronin
Secretary, NFPA Standards Council

c: D. Berry, M. Brodoff, L. Fuller, J. Hart, R. Bielen, E. Carroll
Members, Technical Committee on Piping Systems (HEA-PIP)
Members, Correlating Committee on Health Care Facilities (HEA-AAC)
Members, NFPA Standards Council (AAD-AAA)
Individuals Providing Appeal Commentary
Standards Council Decision (Final): D#13-1
Standards Council Agenda Item: SC#13-3-8-d
Date of Decision: 7 March 2013

SUMMARY OF ACTION (for convenience only; not part of official decision): The Standards Council voted to uphold the appeal and issue TIA No. 1084 with corrections.

DECISION:
At its meeting of March 6-7, 2013, the Standards Council considered an appeal from James K. Lathrop of Koffel Associates regarding the issuance of proposed Tentative Interim Amendment (TIA) No. 1084 on the 2012 edition of NFPA 99, Health Care Facilities Code. The proposed TIA seeks to correct references found in Sections 5.1.1.6, 5.2.1.1 and 5.3.1.1.2. The appellant also requests issuance of the TIA with reference 5.2.1.2(9) removed.

As background, the subject matter of proposed TIA No. 1084 was developed by a Task Group assigned by the Technical Committee on Piping Systems (TC) during the First Draft Meeting held August 22 – 23, 2012. The material proposed in TIA No. 1084 was balloted through the Technical Committee on Piping Systems (TC) and the Correlating Committee on Health Care Facilities (CC) in accordance with the Regulations Governing the Development of NFPA Standards (Regs), to determine if it had the necessary three-fourths majority support on merit and emergency nature to establish a recommendation for issuance. The ballot passed both the TC on technical merit and the CC on correlation merit. The ballot passed the TC on emergency nature, but failed to achieve the necessary support of the CC on emergency nature. One public comment on the appeal was received. When a TIA fails to achieve the recommendation of the responsible committees on both merit and emergency nature, under NFPA rules, the default recommendation of the codes and standards development process is to not issue the TIA. Additionally, the proposed removal of reference 5.2.1.2(9) from TIA No. 1084 was noted as a correction during the initial balloting process; the correction was subsequently submitted to the TC as an informational ballot which achieved overwhelming support of the TC.

The appeal requests that the Council overturn the action that was recommended by the NFPA codes and standards development process, and issue the amended TIA. The Council has reviewed the entire record concerning this matter and has considered all the arguments put forth in this appeal. Accordingly, the Council has voted to uphold the appeal and to issue the amended TIA. On appeal, generally the Council defers to the responsible TC on technical issues, and here the TC supported the technical merit of the TIA and the CC found no issues with correlation. The TIA, however, failed the CC on emergency nature by two votes. The Council notes that one of these negative votes is from a CC member who commented that he now supported the emergency nature of the TIA, but noted the balloting period had ended. On the question of emergency nature, the
Council gives less deference to the judgment of the TC and CC, since the evaluation of emergency nature often involves issues of a non-technical nature that the Council itself has an obligation to evaluate to ensure fairness in the treatment of subjects addressed by TIAs. This is particularly true where, as here, those voting negatively on emergency nature have largely failed to provide any real basis for such conclusion. The Council concludes that, in accordance with the Regs, 5.3 (a), any error or omission which was overlooked during the regular revision process meets the test of emergency nature, and accordingly has voted to uphold the appeal and to issue the amended TIA. The effect of this action is that references found in Sections 5.1.1.6, 5.2.1.1 and 5.3.1.1.2 are modified, and the reference in 5.2.1.2(9) is removed.